

# ***Exhibit 123***

**In the Matter Of:**  
**Atlantica Holdings, Inc. v.**  
**Sovereign Wealth Fund**

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Claudio Khamis  
December 6, 2018  
Confidential

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Page 1

Page 3

1  
2 \* \* \* \* \* C O N F I D E N T I A L \* \* \* \* \*  
3  
4 UNITED STATES DISTRICT COURT  
5 SOUTHERN DISTRICT OF NEW YORK  
6 - - - - - X  
7 ATLANTICA HOLDINGS, INC.,  
8 BALTICA INVESTMENT HOLDINGS,  
9 INC., BLU FUNDS, INC., ALLAN  
10 KIBLISKY, ANTHONY KIBLISKY, and  
11 JACQUES GLIKSBERG,  
12 Plaintiffs, Index No.:  
13 - against - 12-CV-8852  
14 SOVEREIGN WEALTH FUND (JMF)  
15 "SAMRUK-KAZYNA" JSC,  
16 a/k/a "National Welfare Fund  
17 'Samruk-Kazyna,'"  
18 Defendants.  
19 - - - - - X  
20 ATLANTICA HOLDINGS, INC.,  
21 BALTICA INVESTMENT HOLDINGS,  
22 INC., BLU FUNDS, INC., ALLAN  
23 KIBLISKY, ANTHONY KIBLISKY, and  
24 JACQUES GLIKSBERG, Index No.:  
25 Plaintiffs, 13-CV-5790  
- against - (JMF)  
BTA BANK, JSC,  
Defendant.  
- - - - - X  
101 Park Avenue  
New York, New York  
December 6, 2018

1  
2 A P P E A R A N C E S  
3  
4 COZEN O'CONNOR  
5 Attorneys for the Plaintiffs  
6 277 Park Avenue  
7 New York, New York 10172  
8 (212) 863-4900  
9 BY: MARTIN S. BLOOR, ESQ.  
10 mbloor@cozen.com  
11  
12 THE LAW OFFICES OF DAVID LITTLETON  
13 Attorneys for the Plaintiffs  
14 1750 K Street NW  
15 Washington, DC 20006  
16 (202) 256-1914  
17 BY: DAVID LITTLETON, ESQ.  
18 david@rowhouseccap.com  
19  
20 CURTIS, MALLET-PREVOST, COLT & MOSLE LLP  
21 Attorneys for the Defendant Sovereign  
22 Wealth Fund "Samruk-Kazyna" JSC  
23 101 Park Avenue  
24 New York, New York 10178  
25 (212) 696-6000  
BY: JONATHAN J. WALSH, ESQ.  
jwalsh@curtis.com  
ALYSSA J. ASTIZ, ESQ.  
aastiz@curtis.com  
CLARK ORR, Paralegal

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1  
2 EXAMINATION BEFORE TRIAL OF CLAUDIO  
3 KHAMIS, a Plaintiff herein, taken by an attorney  
4 for the Defendants, pursuant to Federal Rule of  
5 Civil Procedure 30(b)(6), held at the above  
6 place and time before Apryl S. Montero, a Court  
7 Reporter and Notary Public within and for the  
8 State of New York.  
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1  
2 KATTENMUCHINROSENMAN LLP  
3 Attorneys for the Defendant BTA Bank, JSC  
4 2029 Century Park East -- Suite 2600  
5 Los Angeles, California 90067-3012  
6 (310) 788-4582  
7 BY: JASON VIGNA, ESQ.  
8 stuart.richter@kattenlaw.com  
9  
10  
11 A L S O P R E S E N T  
12  
13 ZHADYRA NARTAY, BTA Bank  
14  
15 JUAN TORRES, Legal Videographer  
16  
17 -o0o-  
18  
19  
20  
21  
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25

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11	Mr. Khamis, are you hoping to settle the Tristan Oil case and the BTA case together?	308 12
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17	----- R E Q U E S T S -----	
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1	STIPULATIONS	
2		
3		
4	IT IS HEREBY STIPULATED AND AGREED by and	
5	between the attorneys for the respective parties	
6	hereto that filing and sealing be and the same	
7	are hereby waived.	
8	IT IS FURTHER STIPULATED AND AGREED that	
9	all objections, except as to the form of the	
10	question, shall be reserved to the time of the	
11	trial.	
12	IT IS FURTHER STIPULATED AND AGREED that	
13	the within examination may be signed and sworn	
14	to before any Notary Public with the same force	
15	and effect as though signed and sworn to before	
16	this Court.	
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1  
2 (Whereupon, Khamis Exhibit Number 1,  
3 a notice, was marked for identification  
4 as of this date.)  
5 THE VIDEOGRAPHER: The time is  
6 9:40 a.m. on December 6, 2018, and this  
7 begins media number 1 of the video  
8 deposition of Mr. Claudio Khamis in the  
9 matter Atlantica Holdings, Inc., et al.  
10 Versus Sovereign Health -- Sovereign  
11 Wealth Fund, also Atlantica Holdings,  
12 Inc., et al, versus BTA Bank, JSC.  
13 My name is Juan Torres, and I am the  
14 senior legal video specialist with  
15 Lexitas. The court reporter is Apryl.  
16 Will counsel please introduce  
17 themselves, beginning with the parties  
18 noticing this proceeding?  
19 MR. WALSH: Good morning. This is  
20 Jonathan Walsh, Curtis, Mallet-Prevost,  
21 Colt & Mosle, LLP. I represent  
22 Samruk-Kazyna, defendant Samruk-Kazyna.  
23 With me today are Alyssa Astiz and Clark  
24 Orr, also from Curtis.  
25 MR. VIGNA: Jason Vigna of

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1 CONFIDENTIAL -- Claudio Khamis  
2 KattenMuchinRosenman LLP, representing  
3 defendant BTA Bank, JSC.  
4 MR. BLOOR: Martin Bloor from Cozen  
5 O'Connor, representing plaintiffs.  
6 MR. LITTLETON: David Littleton from  
7 The Law Offices of David L. Littleton,  
8 plaintiff.  
9 THE VIDEOGRAPHER: Will the court  
10 reporter please swear in the witness?  
11 CLAUDIO KHAMIS,  
12 The witness herein, having been duly  
13 sworn or affirmed by Apryl S. Montero, a Notary  
14 Public within and for the State of New York, was  
15 examined and testified as follows:  
16 THE REPORTER: Please state your  
17 name for the record.  
18 THE WITNESS: Claudio Khamis.  
19 THE REPORTER: Please state your  
20 current address for the record.  
21 THE WITNESS: Give me one second.  
22 (N.B. 34 Cuckoos Knob, Oak Cottage,  
23 Wootton Rivers, Marlborough, Wiltshire,  
24 United Kingdom, SN8 4NR.)  
25 MR. WALSH: We can do that off the

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1 CONFIDENTIAL -- Claudio Khamis  
2 record. If there's any issues with  
3 spellings, we can do it off the record.  
4 THE WITNESS: Okay. I don't  
5 pronounce too well.  
6 EXAMINATION  
7 BY JONATHAN WALSH, ESQ.:  
8 Q. Good morning, Mr. Khamis.  
9 A. Good morning.  
10 Q. My name is Jon Walsh.  
11 A. I know, Jon.  
12 Q. We've met before; correct?  
13 A. Yes.  
14 Q. Just at the mediation a few days ago?  
15 A. Yes.  
16 Q. That was the only time we've met?  
17 A. Probably.  
18 Q. Have you ever sat for a deposition  
19 before?  
20 A. No.  
21 Q. Let me explain some of the ground  
22 rules. If you have any questions about the  
23 ground rules, please let me know. The most  
24 important ground rule is to let me finish my  
25 question before you begin your answer. That

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1 CONFIDENTIAL -- Claudio Khamis  
2 allows the court reporter to have a complete  
3 record.  
4 If you don't understand my question, let me  
5 know, I can rephrase.  
6 Your lawyer may object to the form of my  
7 questions. Let him object, and I'll respond  
8 accordingly.  
9 If you need a break at any time, let us  
10 know, we'll off the record, if you need to use  
11 the bathroom or get coffee.  
12 Mr. Khamis, what did you do to prepare for  
13 today's deposition?  
14 A. Talked to my lawyers.  
15 Q. And who are those lawyers?  
16 A. Martin Bloor, Mike Deloo [phonetic],  
17 David Littleton.  
18 Q. And how long did you meet with the  
19 lawyers to prepare?  
20 A. I don't have an exact recollection of  
21 time, but -- I mean, during the last two days  
22 when we were doing work for the case and also  
23 preparation.  
24 Q. And did they show you documents to  
25 prepare you for today's deposition?

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1 CONFIDENTIAL -- Claudio Khamis  
2 A. Yeah, we reviewed some documents.  
3 Q. What were those documents?  
4 MR. BLOOR: And you can describe  
5 generally what those documents were.  
6 A. Some emails, the complaint and the  
7 amended complaint, those documents.  
8 Q. And what were the emails? Were they  
9 emails from several years ago or more recent  
10 emails?  
11 A. No. They were emails from several  
12 years ago. I think, yes.  
13 Q. And was there anything else that you  
14 did to prepare for today's deposition, other  
15 than meeting with the lawyers in the last few  
16 days?  
17 A. No.  
18 Q. I'm going to show you what's been  
19 marked as Khamas Exhibit 1. That's the notice  
20 for today's deposition. We've noticed a  
21 corporate representative deposition under the  
22 rules here in the United States.  
23 Have you seen this document before?  
24 A. These are the 40 topics?  
25 Q. Correct.

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1 CONFIDENTIAL -- Claudio Khamis  
2 A. Yes.  
3 Q. When did you see this document?  
4 A. I guess at the time you submitted it.  
5 Not recently.  
6 Q. And do you understand that you're  
7 testifying today on behalf of the plaintiff,  
8 Atlantica Holdings?  
9 A. My understanding is today I'm going to  
10 be testifying only on behalf of the three  
11 plaintiffs.  
12 Q. Today, just so you know how I've  
13 organized today and tomorrow, I'm going to start  
14 with the Atlantica Holdings deposition, and I'll  
15 let you know when we transition to Baltica and  
16 Blu, but today I want to focus on the Atlantica  
17 deposition.  
18 So you understand that you're testifying  
19 today on behalf of Atlantica?  
20 A. There is an issue with that. Can I  
21 make it clear?  
22 Q. Sure.  
23 A. The three entities do the same stuff.  
24 They are all controlled by me, so it's all the  
25 same.

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1 CONFIDENTIAL -- Claudio Khamis  
2 Q. Okay. So you're testifying on behalf  
3 of all three?  
4 A. I think so.  
5 Q. And do you understand that you took an  
6 oath when we started today?  
7 A. Yes.  
8 Q. And that you swore to tell the truth  
9 in this deposition?  
10 A. Yes.  
11 Q. And is there any reason you cannot  
12 testify truthfully today?  
13 A. No.  
14 Q. Are you under the influence of any  
15 medications?  
16 A. I take some medication. I'm not sure  
17 if I'm under the influence.  
18 Q. Do you take any medications?  
19 A. Yes, I do.  
20 Q. What medications did you take?  
21 A. I take for the thyroid --  
22 Q. For thyroid?  
23 A. Yes. I take -- Finasteride -- I take  
24 a lot of other medications  
25 Q. We'll get the spellings during the

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1 CONFIDENTIAL -- Claudio Khamis  
2 break  
3 And what are those medications for?  
4 A. Hormonal balance.  
5 Q. And do those medications affect your  
6 memory or ability to testify?  
7 A. I don't know if there's any  
8 correlation between those medications and my  
9 memory.  
10 Q. Do you have any reason to believe that  
11 they would affect your ability to testify  
12 truthfully?  
13 A. No, no.  
14 Q. And is there any other medication that  
15 you take that you haven't mentioned?  
16 A. Vitamins.  
17 Q. And what did you do, besides meeting  
18 with the lawyers, to testify on behalf of all  
19 three plaintiffs? Did you do any additional  
20 preparation with respect to these topics?  
21 A. No.  
22 Q. When did you first make the decision  
23 to bring a case against the Sovereign Wealth  
24 Fund?  
25 A. I don't recollect exactly the dates,

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1 CONFIDENTIAL -- Claudio Khamis  
2 but they were after the 2012 restructuring, when  
3 we knew the terms of the 2012 restructuring and  
4 the implications of the 2012 restructuring.  
5 Q. When you say we, who are you referring  
6 to?  
7 A. Me and my ego.  
8 Q. Your --  
9 A. Ego. I tend to speak out. When I say  
10 about we --  
11 Q. Is English your first language or your  
12 second?  
13 A. No. It's not.  
14 Q. It's your second language.  
15 A. At the most, second language.  
16 Q. But you understand --  
17 A. I understand English, and I try to  
18 express in English the best possible.  
19 Q. And did you engage counsel when you  
20 made the decision to sue the Sovereign Wealth  
21 Fund? Did you hire a lawyer?  
22 A. Yes. I couldn't understand not to  
23 hire -- not to engage into legal activity  
24 without a lawyer.  
25 Q. Who did you hire?

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1 CONFIDENTIAL -- Claudio Khamis  
2 A. I think the name of the firm was Cohen  
3 & Gresser.  
4 Q. And what was the name of the lawyer?  
5 A. Brett Jaffe.  
6 Q. And do you recall when --  
7 A. No. I don't recall exact dates.  
8 Q. The case was filed at the end of  
9 December 2012.  
10 Do you know if it was around that time that  
11 you hired Mr. Jaffe?  
12 A. No. It was prior to that.  
13 Q. How much prior?  
14 A. I don't know. I don't remember that.  
15 Q. I'm not going to ask you to disclose  
16 your conversations with Mr. Jaffe, but can you  
17 tell me whether you collected documents for  
18 purposes of bringing the action? Did you  
19 collect documents related to this case?  
20 A. Everything that I collected at the  
21 time was submitted to Mr. Jaffe. I don't -- I  
22 don't have an account for so many years later.  
23 That's what I would have to say about it.  
24 Q. And how did you go about collecting  
25 documents?

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1 CONFIDENTIAL -- Claudio Khamis  
2 A. I was following his instructions,  
3 basically.  
4 Q. And did you search your emails for  
5 documents?  
6 A. Sure.  
7 But the emails search was done at the time  
8 of discovery. We didn't -- the preparation for  
9 the litigation -- I don't have clear  
10 recollections about the dynamics of it. I mean,  
11 there was -- we did an analysis on -- on the  
12 facts that we had available at the time. We  
13 didn't have all the facts available, and at that  
14 time, we kept on having facts on this case until  
15 probably today. So -- so it's -- it's hard to  
16 identify a specific tranche or how it worked at  
17 the time.  
18 Q. Let me go back to the emails.  
19 Do you have an email account?  
20 A. Yes.  
21 Q. And what is the email account?  
22 A. It's a hotmail account.  
23 Q. Claudiokhamis@hotmail.com?  
24 A. Correct.  
25 Q. And did you search that account for

Page 20

1 CONFIDENTIAL -- Claudio Khamis  
2 documents related to this case?  
3 A. Yes.  
4 Q. And do you recall when you did that?  
5 A. At the time of discovery we did a very  
6 exhaustive search.  
7 Q. How did you go about doing that  
8 search?  
9 A. I was following the instructions of my  
10 lawyer at the time, and it was through searches,  
11 and I got the assistance of a technician,  
12 informatic technician. I'm not very good at  
13 transferring data from one place to another or  
14 setting it up so it can be emailed or printed.  
15 This was about it.  
16 Q. And did you use search terms to find  
17 responsive documents?  
18 A. Sure, sure.  
19 Q. What search terms?  
20 A. I don't recall all of them, but were  
21 all the search terms regarding the entities, all  
22 the search terms I think I was asked about my  
23 other investments, so I put all my other  
24 investments that I had in my portfolio. I don't  
25 recall more specifics about.

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1 CONFIDENTIAL -- Claudio Khamis  
2 Q. Did you search for the word BTA?  
3 A. Sure.  
4 Q. And did you collect all documents that  
5 were responsive --  
6 A. Yeah, sure, sure, sure.  
7 Q. It is hard, but let me finish. I know  
8 it's very easy to be quick to answer, but let me  
9 finish so we have the right record.  
10 How many documents had the word BTA in it?  
11 A. I don't recall.  
12 Q. Is there a record of the results of  
13 that search?  
14 A. No. It's what we sent to our lawyer.  
15 My lawyer was the one in charge of selecting  
16 which of those documents were privileged, which  
17 not, and . . .  
18 Q. And was that Mr. Jaffe?  
19 A. Yeah.  
20 Q. And did you have to, at some point,  
21 supplement the production, go back and look for  
22 more documents?  
23 A. I don't recall that. I think that we  
24 produced everything at one time.  
25 Q. Is that hotmail account the only email

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1 CONFIDENTIAL -- Claudio Khamis  
2 account that you have?  
3 A. Active, yes.  
4 I have a subscription to gmail account that  
5 I don't use.  
6 Q. Do you use the hotmail account for all  
7 of your investment --  
8 MR. BLOOR: Let him finish.  
9 Q. -- for all of your investment  
10 activities?  
11 A. Yes.  
12 Q. And you use it for everything.  
13 And do you have a UBS electronic account?  
14 A. No.  
15 Q. Is UBS one of your brokerage accounts?  
16 A. You're talking to me as a personal or  
17 as an entity?  
18 Q. Fair question.  
19 So you have three entities Atlantica,  
20 Baltica, and Blu, where you are the majority  
21 owner, sole owner, correct?  
22 A. Correct. Beneficiary.  
23 Q. Beneficiary owner, correct. Do you --  
24 Do those companies have accounts at UBS?  
25 A. Yes.

Page 23

1 CONFIDENTIAL -- Claudio Khamis  
2 Q. And do they continue to have accounts  
3 at UBS?  
4 A. Yes.  
5 Baltica, I think hasn't had movement in a  
6 long time. I don't know whether it's still open  
7 or not.  
8 Q. And when you go --  
9 Do you use online services for UBS?  
10 A. No.  
11 Q. You only have paper copies of your  
12 account statements?  
13 A. Yes.  
14 Q. And do you keep paper copies of your  
15 account statements?  
16 A. Used to keep.  
17 There was a lot of problems with the mail,  
18 so we kept on missing paper. At some point in  
19 time I was reviewing them thoroughly. Since  
20 many -- since a very long time, I don't do that  
21 anymore, because I never found an inconsistency  
22 in terms of commissions charged or pricing or  
23 whatever. It was, has been impeccable for all  
24 the history of the relationship  
25 THE WITNESS: Sorry, can I ask you

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1 CONFIDENTIAL -- Claudio Khamis  
2 for water?  
3 MR. WALSH: Why don't we take a  
4 break.  
5 THE VIDEOGRAPHER: The time is 9:54.  
6 We are going off the record.  
7 (Whereupon, a discussion was held  
8 off the record.)  
9 (Whereupon, Khamis Exhibit Number 2,  
10 a notice, was marked for identification  
11 as of this date.)  
12 (Whereupon, Khamis Exhibit Number 3,  
13 a notice, was marked for identification  
14 as of this date.)  
15 THE VIDEOGRAPHER: The time is  
16 10:01 a.m. We are back on the record.  
17 Q. Mr. Khamis, I'm going to show you  
18 what's been marked as Exhibits 2 and 3. These  
19 are the notices for the depositions of Baltica  
20 and Blu Funds.  
21 A. These are the ones that came at the  
22 same time like the other ones with the same 40  
23 topics?  
24 Q. Yes.  
25 And you're here to testify today on behalf

Page 25

1 CONFIDENTIAL -- Claudio Khamis  
2 of Baltica and Blu Funds as well?  
3 A. Correct.  
4 Q. And you understand that your testimony  
5 is binding on Baltica and Blu Funds?  
6 A. Sure.  
7 Q. Can you tell me where you live,  
8 currently? Is it in Chile?  
9 A. I'm domiciled in the UK, and I keep on  
10 traveling, mostly to Europe and South America,  
11 the United States, for business purposes.  
12 And I have a daughter in Chile that I go  
13 and see every three weeks, four weeks at the  
14 most, so I'm permanently going to visit my  
15 daughter.  
16 Q. Where in the UK are you domiciled?  
17 A. The address that I told you.  
18 Q. Which city?  
19 A. Wiltshire.  
20 Q. And how long have you live in  
21 Wiltshire?  
22 A. I have been living in Wiltshire for  
23 the last three years, two years and a half or  
24 something like this.  
25 Q. And is it a house or an apartment?

Page 26

1 CONFIDENTIAL -- Claudio Khamis  
2 A. It's a -- it's an apartment.  
3 Q. And do you own the apartment --  
4 A. No. It's rented.  
5 Q. You rent, and do you have any other  
6 properties that you own or lease?  
7 A. That I own or lease? I own properties  
8 in Chile and other place  
9 Q. And how many properties do you own in  
10 Chile?  
11 A. Directly or indirectly?  
12 Q. Either.  
13 A. I don't know. More -- more -- it's a  
14 lot of properties.  
15 Q. And are there records that show how  
16 many properties you own?  
17 A. Excuse me?  
18 Q. Are there records that show how many  
19 properties you own?  
20 A. What do you mean? I don't understand  
21 the question.  
22 Q. Do you have deeds of trust? Do you  
23 have documents that you show that you are the  
24 owner of these properties?  
25 A. Yes.

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1 CONFIDENTIAL -- Claudio Khamis  
2 Q. And do you know the approximate value  
3 of the properties that you own in Chile?  
4 A. No.  
5 Q. Is it more than \$10 million?  
6 A. Yes.  
7 Q. Is it more than \$50 million?  
8 A. I don't know.  
9 Q. Are there records that show how much  
10 these properties are worth?  
11 A. No.  
12 Q. Are there other properties outside of  
13 Chile that you own, either directly or  
14 indirectly?  
15 A. There are properties that -- that I  
16 own in other emerging markets.  
17 Q. Where?  
18 A. I don't have the recollection, precise  
19 recollection.  
20 Q. And what is the approximate value of  
21 those properties?  
22 A. I don't have a recollection also.  
23 I don't value properties. Those are  
24 illiquid assets that have been bought during the  
25 last 25 years. I recall one sale of a little

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1 CONFIDENTIAL -- Claudio Khamis  
2 property in Chile, and that's it. So we are not  
3 interested in marketing, to market or value  
4 them. It's not -- it's not what I do.  
5 Q. Do you know how many properties you  
6 own?  
7 A. No. I don't.  
8 MR. BLOOR: And just to clear, are  
9 you talking about him personally, or the  
10 entities that he's here testifying?  
11 Q. Well, let's start with you personally  
12 Mr. Khamis  
13 Is it more than 100 properties that you  
14 own?  
15 A. I don't think so.  
16 Q. Is it more than 10?  
17 A. Yes.  
18 Q. Is it more than 50?  
19 A. I don't know.  
20 Q. Today you don't know how many  
21 properties you own?  
22 A. No. I don't.  
23 Q. And you don't know how much they are  
24 worth?  
25 A. No.



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1 CONFIDENTIAL -- Claudio Khamis  
2 Q. What is your approximate net worth,  
3 Mr. Khamis?  
4 A. It's hard to determine, because some  
5 of the assets, I don't keep track of valuations,  
6 but it would be anywhere in the range of 3- to  
7 500 million, but this is not my personal net  
8 worth. This the net worth of the entities added  
9 to my personal net worth.  
10 Q. And what entities are those?  
11 A. All the entities that are the  
12 plaintiffs.  
13 Q. So let's take Atlantica.  
14 What is the approximate value of the assets  
15 that Atlantica holds?  
16 MR. BLOOR: Objection to form.  
17 Go ahead.  
18 A. I don't have a clear. I would have to  
19 call UBS and see what it's -- what is there, the  
20 value of the account.  
21 Q. Does Atlantica hold any other assets  
22 that are outside of that UBS account?  
23 A. Yes.  
24 Q. And what does it hold?  
25 A. It holds an investment in a

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1 CONFIDENTIAL -- Claudio Khamis  
2 pharmaceutical company in the Middle East.  
3 Q. What is the name of that company?  
4 A. Rameda.  
5 Q. And is that the only other asset,  
6 outside of UBS, that Atlantica holds?  
7 A. To the best of my recollection, yes.  
8 One more time, I don't keep a recollection  
9 of all the assets that are out there or having  
10 invested in.  
11 Q. And what about Blu Funds? Does Blu  
12 Funds have any assets?  
13 A. It's the same. It's the same case as  
14 Atlantica.  
15 Q. Understood, but do they hold assets  
16 outside of the UBS account?  
17 A. Not to my recollection at the moment.  
18 Q. So are you able to calculate your own  
19 net worth outside of the entities?  
20 A. No, no.  
21 Q. And what are the other entities, that  
22 we haven't talked about, that you have a  
23 beneficial ownership in or interest in?  
24 MR. BLOOR: Objection.  
25 Q. Let's take one piece at a time.

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1 CONFIDENTIAL -- Claudio Khamis  
2 Can you tell me the other entities, besides  
3 Atlantica, Baltica, and Blu, where you are the  
4 beneficial owner?  
5 A. This is something I don't manage  
6 myself. I have a person that does overseeing  
7 all the investments that I hold.  
8 Q. And what is the name of that person?  
9 A. Alva --  
10 Q. We'll get the spelling during the  
11 break.  
12 And does that individual know the value of  
13 your holdings?  
14 A. No. If I don't know it, how could he  
15 know?  
16 Q. Do you have --  
17 Is he an accountant?  
18 A. No.  
19 Q. What is his position?  
20 A. He is a person that manages companies  
21 and investments globally for people that have, I  
22 guess, investments in many countries.  
23 Q. Is he an investment advisor?  
24 A. No.  
25 Q. Does he work for a company or for

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1 CONFIDENTIAL -- Claudio Khamis  
2 himself individually?  
3 A. I think he's in the process of setting  
4 up his own company.  
5 Q. Where he is located?  
6 A. In the UK  
7 Q. In Wiltshire?  
8 A. No.  
9 Q. Where is he located, in London?  
10 A. In London.  
11 Q. And do you have an accountant that  
12 manages all of your holdings?  
13 A. No.  
14 Q. Who prepares your taxes?  
15 A. In the places where there is income  
16 taxes, local accountants.  
17 Q. So in the UK, do you have a UK  
18 accountant?  
19 A. Yes.  
20 Q. And what is his name?  
21 A. David.  
22 Q. And what is his last name?  
23 A. I don't know it.  
24 Q. And do you have records that show what  
25 David's last name is?

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1 CONFIDENTIAL -- Claudio Khamis  
2 A. No.  
3 Q. And do you have an accountant here in  
4 the US?  
5 A. No.  
6 Q. Do you have an accountant in Chile?  
7 A. Yes.  
8 Q. What is his name?  
9 A. Marcello Salgado.  
10 Q. How long has he worked for you?  
11 A. He worked for me -- I don't know how  
12 many years -- until 2010, and then he began  
13 working again for me a few months ago.  
14 Q. And does Mr. Delgado know how much  
15 your properties in Chile are worth?  
16 A. Salgado.  
17 Q. Does Mr. Salgado know how much your  
18 properties in Chile are worth?  
19 A. As I mentioned, Mr. Walsh, properties  
20 are booked in the accounting at book value. I  
21 don't know, or it's unknown to me, any practice  
22 where you -- where you market to market the  
23 value of the properties in your accounting.  
24 It's --  
25 Q. Let me rephrase, then.

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1 CONFIDENTIAL -- Claudio Khamis  
2 Does Mr. Salgado know what the book value  
3 of those properties is?  
4 A. Yeah, sure.  
5 Q. Are there any other properties that we  
6 haven't talked about, besides the UBS accounts  
7 and the real estate, that make up the 300- to  
8 500 million net value that you talked about?  
9 A. We are talking about the personal  
10 properties; yes?  
11 Q. And what were those personal  
12 properties?  
13 A. I told you already, I don't have a  
14 recollection of the properties.  
15 Q. Do you have a boat?  
16 A. Excuse me?  
17 Q. Do you own a boat?  
18 A. A boat?  
19 Q. Yes.  
20 A. I used to own a boat  
21 Q. When did --  
22 When was that?  
23 A. When it was -- I don't remember if I  
24 was 10 or 11.  
25 Q. And what type of boat was it?

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1 CONFIDENTIAL -- Claudio Khamis  
2 A. A sailboat.  
3 Q. I'm sorry, say that again?  
4 A. A sailboat.  
5 Q. Do you know the approximate value, how  
6 much you paid for that?  
7 A. It was a -- a Christmas present. It  
8 didn't come with accounting.  
9 Q. Do you have --  
10 Do you own any cars?  
11 A. Yes.  
12 Q. And what cars do you own?  
13 A. I own a Toyota 4Runner. I own a  
14 Porsche, and I own another Porsche.  
15 Q. Where are those cars held?  
16 A. Excuse me?  
17 Q. Where are the cars held?  
18 A. In terms of what?  
19 Q. Where are they located right now, in  
20 the UK?  
21 A. No, those cars are in Chile.  
22 I wouldn't be able to drive on the other  
23 side of the road.  
24 Q. Where were you born?  
25 A. In Santiago.

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1 CONFIDENTIAL -- Claudio Khamis  
2 Q. In what year?  
3 A. In 1967.  
4 Q. And is that where you grew up?  
5 A. Yeah.  
6 Q. Where did you go to school?  
7 A. I went --  
8 The whole education process.  
9 Q. Yes, if you could review that, please.  
10 A. Kindergarten, tanta geezala  
11 [phonetic]. Then I went to the German school.  
12 And yes, for the whole period.  
13 Q. And did you go to university?  
14 A. Yeah.  
15 Q. And where did you go to university?  
16 A. In Santiago.  
17 Q. And what degree did you receive?  
18 A. Economics.  
19 Q. Is that equivalent to a bachelor of  
20 arts?  
21 A. I don't think so. It's more specific.  
22 We were trained with the University of Chicago  
23 teachers.  
24 Q. And what is the degree called? Do you  
25 have a diploma that shows what you have?

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1 CONFIDENTIAL -- Claudio Khamis  
2 A. Yeah. I don't recall what they said,  
3 how they call it in the diploma, but the field  
4 is economics.  
5 Q. And did you also study in Chicago?  
6 A. Yeah.  
7 Q. And what did you study?  
8 A. MBA.  
9 Q. And was that at the University of  
10 Chicago?  
11 A. Yes.  
12 Q. And what years was that?  
13 A. I guess 1993 until 1995, mid of '93 to  
14 mid '95  
15 Q. And did you receive a degree from the  
16 University of Chicago?  
17 A. Yeah.  
18 Q. What degree is that?  
19 A. An MBA.  
20 Q. The MBA.  
21 And what did you do after you received that  
22 MBA?  
23 A. After I received the MBA, I went back  
24 to Chile and worked for my family in the  
25 business that they were in, that were banking

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1 CONFIDENTIAL -- Claudio Khamis  
2 businesses.  
3 Q. What was the name of the bank?  
4 A. Banco Osorno.  
5 Q. And what was your position in that  
6 bank?  
7 A. No official position.  
8 Q. Were you one of the owners of the  
9 bank?  
10 A. Yes, my father.  
11 Q. Your father was the owner.  
12 Was he a majority owner?  
13 A. No. It was split into -- into ten  
14 friends, so everybody got, like, a ten percent  
15 stake.  
16 Q. And how long was the bank in  
17 existence?  
18 A. The bank is still in existence today.  
19 Q. Was the bank eventually bought out by  
20 another bank?  
21 A. Yes.  
22 Q. When did that happen?  
23 A. 1995 or '96, along those years.  
24 Q. And who bought the bank out?  
25 A. Banco Santander.

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1 CONFIDENTIAL -- Claudio Khamis  
2 Q. And did your father make a profit on  
3 the sale of the bank?  
4 A. Yes.  
5 Q. Do you know what the profit was?  
6 A. No. I don't recall the profit at the  
7 time.  
8 Q. Were you a shareholder of the bank  
9 when the bank was sold?  
10 A. Personally?  
11 Q. Yes.  
12 A. No.  
13 Q. Did you make any --  
14 A. Indirectly, yes.  
15 Q. What do you mean by that?  
16 A. Through -- through the holding  
17 companies of my father, I had a stake.  
18 Q. And what was the profit, if any, that  
19 you made from the sale of the bank?  
20 A. I don't recall.  
21 Q. There are some records that reflect a  
22 profit of 75 to 90 million.  
23 Does that sound right to you?  
24 A. In all honesty, I don't recall. It  
25 seems overstated.

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1 CONFIDENTIAL -- Claudio Khamis  
2 Q. Prior to that time, what was your  
3 family's net worth, prior to the sale of the  
4 bank?  
5 A. I don't know.  
6 Q. These were previously marked in a UBS  
7 deposition. Mr. Khamis, I've handed you what's  
8 marked as Patrick Kiblsky 5. This is an  
9 application for a UBS account.  
10 Do you recognize it?  
11 A. Yes.  
12 Q. Do you see it's the application  
13 account for Atlantica Holdings?  
14 A. Where does it say Atlantica?  
15 Q. Right on the first page.  
16 A. Oh, yes.  
17 Q. If you could flip through it and see  
18 if it refreshes your recollection whether you  
19 filled this out or someone else filled it out  
20 for you?  
21 MR. BLOOR: Objection.  
22 Q. Well, let me ask the question.  
23 Do you know if you filled out this  
24 application or if someone else filled it out for  
25 you?



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1 CONFIDENTIAL -- Claudio Khamis  
2 A. No. Most likely somebody else filled  
3 it out for me, because I do not typewriting.  
4 Q. Do you see the address for Atlantica  
5 Holdings on the first page?  
6 A. Yes.  
7 Q. Is that still the address of Atlantica  
8 Holdings?  
9 A. Probably not, because I changed  
10 registered agent.  
11 And this was from what date is this?  
12 Q. I believe this was filled out in 19 --  
13 I'm sorry, 2000 --  
14 A. '5?  
15 Q. When you opened the account, which I  
16 think was 2008?  
17 A. Yes.  
18 Q. So it's a company formed in Panama.  
19 Do you know why Atlantica is set up in  
20 Panama?  
21 A. Yes.  
22 Q. Why is that?  
23 A. Because I was advised by my lawyers  
24 to --  
25 MR. BLOOR: I just caution you not

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1 CONFIDENTIAL -- Claudio Khamis  
2 to reveal your lawyer's advice.  
3 THE WITNESS: Okay.  
4 Q. Was there a tax benefit to setting  
5 this company up in Panama?  
6 A. My lawyer instructed me not to.  
7 Q. The other two funds, Baltica and Blu,  
8 they were also set up in Panama, correct?  
9 A. Correct.  
10 Q. And if you see under industry group,  
11 it says PHC.  
12 What does that stand for?  
13 A. Where are you looking at?  
14 Q. Right under the lower left corner on  
15 the front page.  
16 Is Atlantica a PHC?  
17 A. I don't know what a PHC is.  
18 Q. Is it a private holding company? Are  
19 you familiar with that term?  
20 A. I think it's an investment vehicle.  
21 Q. And what do you mean by that? What is  
22 an investment vehicle?  
23 A. An investment vehicle is an entity  
24 that allows me to hold assets and invest in  
25 different countries.

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1 CONFIDENTIAL -- Claudio Khamis  
2 Q. And do you know if Atlantica pays  
3 taxes in Panama?  
4 A. Atlantica doesn't have to pay taxes in  
5 Panama.  
6 Q. Why not?  
7 A. My lawyers told me that they don't  
8 have to.  
9 Q. Does Atlantica have to pay taxes  
10 anywhere?  
11 A. Atlantica pays taxes for -- for its  
12 income that it makes locally at the -- at the  
13 given -- at the regulations, tax regulations of  
14 each country for every dividend it receives or  
15 every transaction that is subject to tax.  
16 Atlantica is a -- is a complying company  
17 with regulations, as far as I know, and if you  
18 know otherwise, please tell me.  
19 Q. Atlantica has a UBS account; correct?  
20 This was to open a UBS account?  
21 A. Sure.  
22 Q. Just so I understand what you've said,  
23 if Atlantica receives a dividend from a US  
24 company in this Atlantica account, does  
25 Atlantica pay US taxes on that dividend?

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1 CONFIDENTIAL -- Claudio Khamis  
2 A. It's deducted from the dividend  
3 payment.  
4 Q. And is that true for Atlantica  
5 Holdings in other countries, that it pays local  
6 tax --  
7 A. Yeah, yes.  
8 MR. BLOOR: Just let him finish the  
9 question.  
10 Q. And why did you set up --  
11 I'll represent that we have other accounts  
12 at UBS, an account for Baltica and an account  
13 for Blu Funds.  
14 Why did you set up multiple accounts at  
15 UBS?  
16 A. The reason for multiple accounts is  
17 because there are more than one entity.  
18 Q. Why did you create more than one  
19 entity?  
20 MR. BLOOR: Objection.  
21 A. The reason for creating one entity at  
22 the time they were created was to segregate  
23 investments into different types.  
24 Yeah, that's my answer.  
25 Q. And what type of, different types of

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1 CONFIDENTIAL -- Claudio Khamis  
2 investments?  
3 A. I don't recall exactly what was in my  
4 head at the time I set them up, but it was to  
5 diversify, eventually, across regions, types of  
6 investment.  
7 Baltica was supposed -- this is I recall.  
8 I have a clear recollection, because of the  
9 story -- to hold fixed income investment in  
10 emerging market of what we deem to be very good  
11 quality investments, and turn both, directly and  
12 indirectly, expropriated by the Republic of  
13 Kazakhstan, and this is one of the reasons why  
14 Baltica doesn't have any holdings anymore.  
15 Q. And what about Atlantica? Why was  
16 Atlantica set up?  
17 A. As I told -- as I mentioned before,  
18 the difference between at Atlantica and Baltica  
19 is that Atlantica did have other investments and  
20 was not so concentrated in the Republic of  
21 Kazakhstan.  
22 Q. Did you name the entities Baltica and  
23 Atlantica and Blu Funds?  
24 A. Yes.  
25 Q. Why did you name them the names that

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1 CONFIDENTIAL -- Claudio Khamis  
2 you gave?  
3 A. I thought it sounded good.  
4 Q. And do you have other holding  
5 companies that have accounts at UBS?  
6 A. Yes. There was one more in UBS that I  
7 recall.  
8 Q. What's the name of that company?  
9 A. Barents.  
10 Q. B-A-R-E-N-T-S?  
11 A. Yes.  
12 Q. And did Barents invest in Kazakh  
13 banks?  
14 A. No.  
15 Q. Turn to the exhibit that I've shown  
16 you, to page, at the bottom it's 7552.  
17 A. Yeah.  
18 Q. Do you see account investment  
19 objectives at the bottom?  
20 A. Yeah, I see.  
21 Q. And does this accurately reflect the  
22 return objectives for Atlantica at this time,  
23 capital appreciations, investment seeking growth  
24 of principal rather than generation of income?  
25 A. Rather than what?

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1 CONFIDENTIAL -- Claudio Khamis  
2 Q. Do you see the box that's checked,  
3 capital appreciation?  
4 A. I do every investment to make money,  
5 to -- for capital to make money to appreciate,  
6 yes.  
7 Q. So that's an accurate --  
8 A. That's an accurate statement.  
9 Q. -- accurate statement.  
10 And the same with primary risk profile, do  
11 you see that it's checked  
12 aggressive/speculative?  
13 A. This is something that UBS put in it,  
14 because they deemed to classify at the time into  
15 this box.  
16 It's not what I think of my investments.  
17 Q. Did you review this after it was  
18 filled out?  
19 A. No.  
20 Q. If you look at page ending 7556, is  
21 that your signature --  
22 A. Yes.  
23 Q. So you did sign it?  
24 A. Yeah.  
25 Q. But you didn't read it?

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1 CONFIDENTIAL -- Claudio Khamis  
2 MR. BLOOR: Objection.  
3 A. Here you can see clearly that the  
4 paper was brought with stickers that said sign  
5 here. It's still in the copy.  
6 Q. No, I understand.  
7 You did sign it?  
8 A. Yes.  
9 Q. Did you read it before you signed it?  
10 A. No.  
11 For me it was standard paperwork. It came  
12 to me by UBS. It didn't come by somebody I met  
13 on the street, so I trust UBS.  
14 Q. Going back to the primary risk  
15 profile, do you agree or disagree that this  
16 account was an aggressive/speculative account?  
17 MR. BLOOR: Objection.  
18 A. I disagree.  
19 Q. Did you communicate to UBS at any  
20 point that you did not believe that this was an  
21 aggressive/speculative account?  
22 A. I remember discussing it with somebody  
23 at UBS, and they told me that it didn't matter.  
24 Q. Who was the person?  
25 A. I don't recall the person.

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1 CONFIDENTIAL -- Claudio Khamis  
2 Q. Did they explain why it didn't matter?  
3 A. Because it seemed that the -- that the  
4 way they see the -- the way in people's look at  
5 it in the US, I would -- it would be classified  
6 my investments into that box regardless of what  
7 I thought about it.  
8 Q. How would you classify your own  
9 investment strategy for these three accounts,  
10 Atlantica, Baltica, and Blu?  
11 A. I don't classify my investments  
12 into -- I make investments based on an  
13 assessment, not on some sort of specification or  
14 whatever I want to put myself into some  
15 classification.  
16 Q. Do you understand what a conservative  
17 risk profile is?  
18 A. I understand what people usually  
19 understand for a conservative risk profile.  
20 Q. How would you describe a conservative  
21 risk profile?  
22 A. I don't know how I would describe it.  
23 I understand that people here in the US,  
24 financial markets, for instance, describe very  
25 conservative investment in treasuries, and I

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1 CONFIDENTIAL -- Claudio Khamis  
2 don't understand, even though I have studied  
3 economics and finance, how an investment that  
4 pays you for 15 years below inflation can be  
5 deemed conservative. I don't -- I don't share  
6 those concepts.  
7 Q. How would you describe that investment  
8 strategy?  
9 A. I don't have an opinion on this  
10 investment strategy. I focus on what I do, not  
11 what other people do.  
12 Q. Do you have an understanding what an  
13 aggressive strategy is?  
14 A. I have my own opinion of what  
15 aggressive can be.  
16 Q. What is the opinion?  
17 A. Packaging mortgages for people that  
18 have no income and selling them and classifying  
19 as AAA by rating agencies, that, I would deem  
20 very aggressive.  
21 Q. Have you ever invested in those types  
22 of investment?  
23 A. No.  
24 Q. Are you familiar with the term junk  
25 bond?

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1 CONFIDENTIAL -- Claudio Khamis  
2 A. A little.  
3 Q. What is a junk bond?  
4 A. I wouldn't -- I couldn't tell you  
5 exactly what a junk bond is. I know it's deemed  
6 as a low quality.  
7 I guess junk is garbage, isn't it?  
8 Q. Are you familiar with the rating  
9 agencies, Moody's, Fitch, et cetera?  
10 A. Yeah. I'm very familiar.  
11 Q. Are you familiar with the rating  
12 system that each of those entities --  
13 A. No.  
14 Q. Do you know what a AAA bond is?  
15 A. I know that -- that sub-prime was  
16 classified with very high ratings. I don't  
17 remember if they were AAA or -- I have a lot of  
18 interest in learning a little bit more about how  
19 they do their job.  
20 Q. And are you familiar with what a B or  
21 a BBB bond is?  
22 A. No. I don't.  
23 Q. And are you familiar with what the  
24 significance is if a bond is not rated at all by  
25 Moody's or Fitch?

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1 CONFIDENTIAL -- Claudio Khamis  
2 A. Can you repeat your question?  
3 Q. Are you familiar with what the  
4 significance is if Moody's or Fitch, these bond  
5 rating agencies, doesn't even rate a bond?  
6 MR. BLOOR: Objection.  
7 A. No. I'm not aware what they could  
8 mean.  
9 I don't rate the bond. I have seen, in my  
10 experience, a lot of very high quality assets  
11 being not rated and completely overlooked by the  
12 market.  
13 Q. What are some examples of that?  
14 A. Well, I would say Gazprom was very  
15 much overlooked by the market for a very long  
16 time.  
17 Q. Did you make money on Gazprom?  
18 A. Yes, I did.  
19 Q. How much money did you make?  
20 A. I don't recall.  
21 Q. Your net worth, indirect and direct  
22 net worth --  
23 A. I would clarify that statement.  
24 I'm today beneficiary with my daughter of  
25 some -- some group of investments.

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1 CONFIDENTIAL -- Claudio Khamis  
2 I have other investments, as I mentioned,  
3 that are under my name or companies that are  
4 under my name. I don't follow through  
5 valuations of any of my investment. I just make  
6 sure I can pay the bills at the end of the  
7 month, and I would say that, to the best of my  
8 recollection, I don't know if I care too much  
9 about -- about more valuations of my -- of what  
10 my net worth can be estimated every day or every  
11 week or every month.  
12 Q. Do you consider yourself a wealthy  
13 man?  
14 A. I think wealth is something that you  
15 never count on. It comes and it goes.  
16 My family are both immigrants, both have  
17 very good lives, and both ended up suddenly  
18 without anything, not even something to eat.  
19 Q. How did that happen?  
20 A. Second World War.  
21 Q. And did they recover from that?  
22 A. Yeah. They recover from that after  
23 50 years and a lot of hard work.  
24 Q. And your family made a fair amount of  
25 money on the sale of the family bank; correct?

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1 CONFIDENTIAL -- Claudio Khamis  
2 A. Yeah.  
3 Q. How did your valuation grow from that  
4 profit to the 300- to \$500 million that we're  
5 talking about now?  
6 MR. BLOOR: Objection.  
7 Q. Was it through investments or other  
8 means?  
9 A. No. It was mainly investment.  
10 Q. What types of investments?  
11 A. Financial investments and real estate  
12 investments.  
13 Q. Are you familiar with the term the  
14 Chilean Miracle?  
15 A. No.  
16 Q. Do you recall that in the 1990s banks  
17 in Chile were bailed out by the government?  
18 A. They thought it was a miracle?  
19 Q. Well, let me ask:  
20 Do you recall the event, whether it's a  
21 miracle or not?  
22 A. I have recollection? I was a -- when  
23 this happened, I was, like, 13 years old.  
24 Q. And did your family profit from that  
25 event, the event of the banks being bought out

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1 CONFIDENTIAL -- Claudio Khamis  
2 and stabilized by the government?  
3 MR. BLOOR: Objection.  
4 A. No, no.  
5 Q. But there was a turnaround in the  
6 banking industry in Chile after that?  
7 A. Yes.  
8 Q. And several people in Chile made a lot  
9 of money based on the turnaround of the Chilean  
10 banking industry?  
11 A. I think you're confusing some facts,  
12 Mr. Walsh.  
13 Q. Help me understand.  
14 MR. BLOOR: Objection.  
15 A. When the financial crisis happened in  
16 the early '80s, 1981 or '82, the currency  
17 devaluated significantly, and besides that,  
18 there were a lot of problems in the financial --  
19 in the portfolio of loans from the banks.  
20 What the government did is they lent the  
21 money to make up for the losses in the  
22 portfolio, and they charged for that loan market  
23 interest. The banks, in turn, would have to  
24 devote 70 percent of their dividends to repay  
25 back those loans, and most of those loans were

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1 CONFIDENTIAL -- Claudio Khamis  
2 repaid after many, many years when those banks  
3 were able to issue equity and develop financial  
4 markets, and valuations of the banks were good.  
5 So they are allowed to raise capital to repay  
6 the debt to the central bank  
7 So this is how it worked. There was no  
8 miracle in it  
9 Q. Did the investors in those banks make  
10 a profit on the bailout of the banks by the  
11 government?  
12 MR. BLOOR: Objection.  
13 A. The investors in the banks lost  
14 everything.  
15 Q. But did the people that invested in  
16 the banks after that event recover profit?  
17 MR. BLOOR: Objection.  
18 A. Mr. Walsh, one more time, you're  
19 getting your facts wrong.  
20 The banks were sold by the government in a  
21 competitive and transparent process where  
22 everybody could bid, and the biggest banks were  
23 given -- were put for sale to the people of  
24 Chile in a very democratic way with very easy  
25 conditions to repay back the stock during many

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1 CONFIDENTIAL -- Claudio Khamis  
2 years, so it was a very transparent and open  
3 process for the benefit, mostly, of the people  
4 of Chile.  
5 Q. Was your family one of the investors  
6 in the banks after that event?  
7 A. My family invested, probably five  
8 years after that event.  
9 Q. And was that how they acquired their  
10 interest in Banco Osorno --  
11 Am I pronouncing that right?  
12 What was the name of the bank --  
13 A. Osorno.  
14 Q. Osorno. Is that how they acquired  
15 their interest in Osorno?  
16 A. Osorno was put for sale in an open  
17 process. There was competitive bidding, and  
18 this was how it was sold.  
19 Q. When did your family acquire their  
20 interest in that bank?  
21 A. If my memory is right -- sorry, it was  
22 1990 -- 1986. Not 1996. I was wrong for ten  
23 years.  
24 Q. And when did Banco Santander buy --  
25 A. Ten years later.

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1 CONFIDENTIAL -- Claudio Khamis  
2 Q. And do you know approximately how much  
3 your family profited?  
4 A. You asked me that already --  
5 MR. BLOOR: Objection.  
6 A. You asked me that already, and I said  
7 I don't know.  
8 Q. This was previously marked as  
9 Exhibit 3 as Patrick's deposition.  
10 Mr. Khamis, this is another document  
11 related to the opening of the account at UBS for  
12 Atlantica; correct?  
13 A. Correct.  
14 Q. And if you see at the front page,  
15 you're identified as the beneficial owner?  
16 A. Yes.  
17 Q. And do you see that, did you fill this  
18 out, or did UBS fill this out?  
19 A. As I told you before, everything that  
20 is typed, I don't fill it out.  
21 Q. Okay. Did you review this before it  
22 was finished or after it was finished?  
23 A. No.  
24 Q. Do you see where they put down  
25 estimated net worth, 75 million, on the front

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1 CONFIDENTIAL -- Claudio Khamis  
2 page?  
3 A. For Atlantica  
4 Q. Yes. You see on the first page, very  
5 first page bottom right corner, estimated net  
6 worth, 75 million?  
7 A. Yeah, I see it.  
8 Q. Is that an accurate reflection of the  
9 value of Atlantica at that time?  
10 A. Of Atlantica?  
11 Q. Well, is it Atlantica or your own net  
12 worth?  
13 A. I don't know.  
14 Q. You weren't involved in filling this  
15 out?  
16 A. No.  
17 Q. If you turned to the page at the end  
18 with 7567.  
19 Do you have it?  
20 A. Excuse me?  
21 Q. If you could turn to the page with the  
22 stamp at the bottom, 7567 --  
23 A. Yes.  
24 Q. Do you see there's a section marked  
25 other sources of wealth?

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1 CONFIDENTIAL -- Claudio Khamis  
2 A. Yeah.  
3 Q. And they've described your real estate  
4 investments properties through Chile and Peru.  
5 We talked about that; correct?  
6 A. Yeah.  
7 Q. And they also have securities  
8 investments successfully trading in emerging  
9 markets in US and foreign market.  
10 Was that, is that another source of your  
11 wealth at this time?  
12 A. What does it say, trading in emerging  
13 markets, US foreign markets?  
14 Q. The US -- the ampersand means --  
15 A. And US? I don't think -- foreign  
16 market, yes. American market, yes. I don't  
17 recall having made any investments in the US at  
18 the time.  
19 Q. But that was one of your sources of  
20 wealth at the time, your investments and  
21 trading?  
22 A. They put trading here.  
23 I trade very little. I buy stuff and I  
24 hold it.  
25 Q. Would it be better to say investments



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1 CONFIDENTIAL -- Claudio Khamis  
2 in emerging markets and foreign markets?  
3 A. At the time, probably.  
4 Q. That was one of your sources of wealth  
5 at this time, those investment activities?  
6 MR. BLOOR: Objection.  
7 A. Yes.  
8 Q. If you look below, it says sale of  
9 business, and they've written here in 1994 sold  
10 his nine percent stake of Banco Osorno to Banco  
11 Santander. His stake was \$90 million.  
12 Is that accurate?  
13 A. I don't think so. I think we had  
14 partners. I don't -- I don't know the split up  
15 of that. My uncle was involved and --  
16 Q. What was your uncle's name?  
17 A. Maurice.  
18 Q. Who else was involved in Banco Osorno  
19 in your family?  
20 A. I don't recall. Too long time.  
21 Q. And they've also written here in 1999  
22 sold his seven percent stake of Corp group to  
23 CorpBanca. His stake was \$30 million.  
24 Is that an accurate statement?  
25 A. I don't remember the conversion rate

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1 CONFIDENTIAL -- Claudio Khamis  
2 at the time. Probably.  
3 Q. And then in the last box, under the  
4 section if inheritance, list approximate date  
5 and amount, identify the party granting the  
6 inheritance by name and relationship to the  
7 client, and UBS has written the nine percent  
8 stake original investment was for \$1 million in  
9 1987. This investment was made in Banco del  
10 Trabajo, which later became Banco Osorno.  
11 Was that an accurate statement when this  
12 was filled out?  
13 A. Probably not.  
14 Q. What's inaccurate about that  
15 statement?  
16 A. I don't think the dates are right.  
17 Q. What about the amounts?  
18 A. I'm not sure if the amounts are right,  
19 and Banco del Trabajo is a bank that was bought  
20 after Banco Osorno and later on merged.  
21 Q. Do you know what your family's  
22 investment was in Banco Osorno when there was a  
23 sale?  
24 A. No. It was in 1986, I was -- when  
25 they were investing, 18 years old. I wasn't --

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1 CONFIDENTIAL -- Claudio Khamis  
2 I was focused on trying to get myself into  
3 school  
4 Q. When did you start investing in  
5 securities, Mr. Khamis?  
6 A. At an early age.  
7 Q. How old?  
8 A. I don't know exactly, probably 20s,  
9 early 20s.  
10 Q. And did you have a brokerage account  
11 at that time?  
12 A. Yeah, I had a little brokerage  
13 account.  
14 Q. What was the name of the broker?  
15 A. Covarrubias.  
16 Q. And approximately how much money did  
17 you have in that account when you started?  
18 A. Probably \$500.  
19 Q. And did you make money in that  
20 account?  
21 A. I made, I lost, I was happy, I was  
22 depressed. It was a learning process. I didn't  
23 understand much at that age.  
24 Q. What types of investments did you  
25 invest --

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1 CONFIDENTIAL -- Claudio Khamis  
2 A. Stocks.  
3 Q. US stocks?  
4 A. No, no.  
5 Q. Something else?  
6 A. The economy wasn't that integrated,  
7 and the financial market wasn't that integrated  
8 at that time.  
9 No. I think it was a winery.  
10 Q. Was it Chilean stock?  
11 A. Yeah.  
12 Q. And do you still have that account?  
13 A. No.  
14 Q. When did you close it?  
15 A. I have no recollection at all.  
16 Listen, you're asking -- all your questions,  
17 Mr. Walsh, are way back then. I mean, I'm a  
18 very busy person. It's a lot of information.  
19 I'm the only one in charge of everything. I  
20 mean, I'm a human being, still.  
21 Q. I'm just trying to understand your  
22 investment history, Mr. Khamis.  
23 Do you recall the next brokerage account  
24 that you opened?  
25 A. No. I don't have a timeline of

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1 CONFIDENTIAL -- Claudio Khamis  
2 events.  
3 Q. Did you, at some point, have an  
4 investment account with Monex in Chile?  
5 A. I remember we did something with  
6 Monex. Monex, if my memory is right, to be very  
7 active and exchange pesos for dollars and the  
8 other way around, and Monex had -- the owner of  
9 Monex had a company that managed investments in  
10 emerging markets.  
11 Q. Who was the owner of Monex?  
12 A. Jack Aragas.  
13 Q. Do you know Mr. Aragas?  
14 A. Yes.  
15 Q. How do you --  
16 How did you first meet Mr. Aragas?  
17 A. I don't remember. Probably in his  
18 office the Monex.  
19 Q. And is he a friend of yours?  
20 A. We have a good relationship with him.  
21 It's -- he's a very nice guy. When the rabbi  
22 comes from New York, I'm invited even those I'm  
23 not Jewish. We have this sort of relationship,  
24 very good to this level, but it's not that we  
25 talk to each other frequently, but I care a lot

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1 CONFIDENTIAL -- Claudio Khamis  
2 about him, and I'm pretty sure he does the same  
3 for me.  
4 Q. And you don't recall when you met him,  
5 but do you know roughly how long you've known  
6 him?  
7 A. '90s, early '90s.  
8 Q. Did he manage your money at Monex?  
9 A. I don't recall a moment where in my  
10 life where people ever managed my money.  
11 Q. You've never had a managed account?  
12 A. No.  
13 Q. You've always had a self-directed  
14 account?  
15 A. Yes.  
16 Q. Do you know who Patrick Kiblsky is?  
17 A. Yes.  
18 Q. How do you know Mr. Kiblsky?  
19 A. I met him at the Monex time. Exactly  
20 what the circumstances were about our first  
21 meeting -- I probably don't recall my first  
22 meeting with my girlfriend, so it's not  
23 something I would have a clear memory, so . . .  
24 Q. Did Mr. Kiblsky work for Mr. Aragas?  
25 A. To my recollection, yes, but I don't

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1 CONFIDENTIAL -- Claudio Khamis  
2 think that at Monex. I don't know if it was in  
3 the other company. I just don't know enough  
4 about -- about what was their relationship at  
5 the time.  
6 Q. Mr. Kiblsky is your broker at UBS  
7 now; correct?  
8 A. Yes.  
9 Q. And when did he first become your  
10 broker?  
11 A. In UBS?  
12 Q. Anywhere.  
13 A. I would say at the times of the  
14 investments we did with the company Vargas with  
15 Jack.  
16 Q. And did, at one point Mr. Kiblsky go  
17 to Smith Barney?  
18 A. Yes.  
19 Q. And did you have an account at Smith  
20 Barney with him?  
21 A. Yes. If my memory is right, I think  
22 that every time Patrick has changed a financial  
23 situations I have been with him.  
24 Q. And do you recall where else he's  
25 worked, besides Smith Barney and UBS?

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1 CONFIDENTIAL -- Claudio Khamis  
2 A. No.  
3 Q. Again, I know you don't remember when  
4 you met Mr. Kiblsky, but do you recall how long  
5 you've known Mr. Kiblsky?  
6 A. Yeah, a very long time  
7 Q. 1990s?  
8 A. 1990s.  
9 Q. You're the only beneficial owner of  
10 the Baltica, Atlantica, and Blu Funds; correct?  
11 A. My daughter is the beneficiary, not  
12 the beneficial owner.  
13 Q. And do you have any employees working  
14 with you for any of those funds?  
15 A. No.  
16 Q. If you could, today, describe what  
17 your typical day is with respect to your  
18 investments?  
19 A. Typical day with respect to  
20 investments?  
21 Q. I'm just trying to understand. You  
22 have these three accounts at UBS, you have other  
23 accounts at other locations.  
24 How do you, on a daily basis, monitor the  
25 accounts and make investment decisions?

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1 CONFIDENTIAL -- Claudio Khamis  
2 MR. BLOOR: Objection.  
3 Q. Let me break it up to make it easier.  
4 How often do you trade?  
5 A. Not very often.  
6 Q. How often do you do investment  
7 research?  
8 A. Investment research? I don't do  
9 investment research. Usually I'm -- I'm  
10 analyzing everything that goes around me from  
11 the moment I wake up until the moment I -- I  
12 close my eyes very late every day. I don't  
13 sleep much.  
14 Q. Do you --  
15 Do you read financial newspapers?  
16 A. When I think that they have  
17 information that is very valuable and well  
18 developed, yes.  
19 Q. What financial newspapers do you read?  
20 A. Any of them. It could be the  
21 Financial Times if I have it handy. It doesn't  
22 come when I'm in Chile. It's not available.  
23 It could be the Wall Street Journal.  
24 It could be Bloomberg channel that I pay  
25 attention frequently, very, very often to see

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1 CONFIDENTIAL -- Claudio Khamis  
2 what people in the market are talking about.  
3 I follow events everywhere. I'm interested  
4 in Kim Jong-un, but I would never invest a penny  
5 in North Korea, but it's about investing, doing  
6 research. I wouldn't say this is on a daily  
7 basis. It comes as a generally understanding of  
8 what happens and in the information collecting  
9 by analyzing what is going on.  
10 If I need them to focus on something, I try  
11 to make the best assessment with the information  
12 available I have. Sometimes it could be a  
13 report, or if I don't -- I deem the report not  
14 to be written by a person capable enough, I  
15 wouldn't pay attention to it.  
16 (Whereupon, Khamis Exhibit Number 4,  
17 email, dated 5/2/08, was marked for  
18 identification as of this date.)  
19 Q. Mr. Khamis, this is Khamis Exhibit 4.  
20 This is an email from May 2nd, 2008, from you to  
21 Frederic Cerez at UBS.  
22 A. Yeah.  
23 Q. Who is Frederic Cerez?  
24 A. Frederic Cerez was an account manager  
25 or advisor, or whatever you want to call him, at

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1 CONFIDENTIAL -- Claudio Khamis  
2 UBS.  
3 Q. Was he located in Geneva?  
4 A. This is not regarding any of the  
5 plaintiffs.  
6 Are you aware of that?  
7 Q. It was produced by the plaintiffs in  
8 this case. The P means it was produced by your  
9 lawyers.  
10 A. Yeah, but it has nothing to do with  
11 the plaintiffs.  
12 This is -- this an account that is not --  
13 to the best of my recollection, this is not an  
14 account from neither of the plaintiffs.  
15 Q. The account we've been talking about  
16 with USB, that was with UBS Financial Services  
17 in Miami; correct?  
18 A. Correct.  
19 Q. Do you have other UBS accounts?  
20 A. For the plaintiffs? Not that I  
21 recall.  
22 Q. What about for yourself?  
23 A. I used to have this account, but this  
24 account is not in use since a while.  
25 Q. What was the --

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1 CONFIDENTIAL -- Claudio Khamis  
2 Was it an individual account or a PHC  
3 account?  
4 A. It was an -- I don't know.  
5 Q. Do you know the name of the account?  
6 A. No. I don't know the name of the  
7 account.  
8 Q. Was there a company associated with  
9 the account?  
10 A. I don't recall.  
11 Q. What investments did this account  
12 hold?  
13 A. I don't recall.  
14 This was an account of very minor size. I  
15 don't think it ever got to one million or it was  
16 just one million. I don't recall it as nothing  
17 meaningful.  
18 Q. You've written to Mr. Cerez:  
19 Hi, Frederic. Can you please send me  
20 research on Unified Energy Systems Russia.  
21 A. Yes.  
22 Q. Sberbank, Russia; Semex, Mexico?  
23 A. Yeah.  
24 Q. What are you asking Mr. Cerez there?  
25 A. I'm asking him exactly what it says



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1 CONFIDENTIAL -- Claudio Khamis  
2 here, to send me research.  
3 Q. What type of research?  
4 A. What do you mean?  
5 Q. Was it analyst research?  
6 A. Yeah, analyst research.  
7 Q. And were you asking for the UBS  
8 analyst research?  
9 A. I was asking for research and  
10 products.  
11 Q. And why were you asking for this  
12 research?  
13 A. At the time I think -- with the other  
14 investments, I don't think I hold those,  
15 Sberbank at the time, neither Semex.  
16 But I recall buying Unified Energy Systems  
17 in Russia. It was a company that hold an  
18 electricity grid and generation. So i think it  
19 was everything, generation and distribution of  
20 energy, and it was being, make more efficient by  
21 the way of separating the entities, and it  
22 turned out to be a process in which many of the  
23 stocks became very liquid, and there was a lot  
24 problem because of one stock it became a lot of  
25 stocks, and many of them without coverage, so it

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1 CONFIDENTIAL -- Claudio Khamis  
2 was very hard to really understand the  
3 investment after they broke up.  
4 Q. Did you make money on that investment?  
5 A. I don't recall making money on that  
6 investment. Actually, it's -- this investment,  
7 I think that was one of the investments that  
8 didn't turn out that well.  
9 Q. You lost money on that investment?  
10 A. I couldn't guarantee, but pretty sure.  
11 Q. You go on to write:  
12 What is the view of UBS on uranium and  
13 nuclear energy stocks? Any recommendations on  
14 its yields?  
15 Why are you asking for UBS' view on uranium  
16 and nuclear energy stocks?  
17 A. I don't know what caught my attention  
18 at the time regarding uranium and nuclear. What  
19 I -- if you see the date, the date is 2008.  
20 What I recall about this time is that I was  
21 very liquid, because I had sold most of my  
22 investments prior to the blowup of the -- of the  
23 sub-prime problem here in the US, and I was  
24 looking for a -- for investments that made a lot  
25 of sense at the time.

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1 CONFIDENTIAL -- Claudio Khamis  
2 Another time I probably was looking into  
3 the problem with fossil fuel. That was a big  
4 issue on the agenda until the financial crisis,  
5 global warming, so I was probably looking  
6 into -- into what would be the industries that  
7 would be doing well after -- after carbon and  
8 oil and, eventually, gas would go out with  
9 energy metrics, so this was why I was looking  
10 at -- nuclear and uranium go together.  
11 Q. You said that you liquidated a lot of  
12 your investments prior to the financial crisis?  
13 A. Yes.  
14 Q. Do you recall roughly when that was,  
15 when you liquidated those assets?  
16 A. 2007, if my memory is right.  
17 Q. And why did you make a decision to  
18 liquidate your assets then?  
19 A. Because I was very worried that you  
20 had a lot of people buying into instruments that  
21 were very highly rated in terms of -- by the  
22 rating agencies as very good investments, and I  
23 thought that they were very bad investments.  
24 Q. And did you liquidate into cash or  
25 into other investments?

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1 CONFIDENTIAL -- Claudio Khamis  
2 A. Into cash.  
3 So this is why I was looking into other  
4 investments at the time, to try to see if I  
5 had -- I had way too much cash than I wanted at  
6 the time, and there was no good alternative,  
7 because after the monetary policy by Greenspan,  
8 rates were very low globally for a very long  
9 time, and so I knew that in the long-term  
10 investing and treasuries, as I said, or treasury  
11 equivalents, would be very risky, even though  
12 here is very conservative investment. For me,  
13 that was a secure way to make sure I lost  
14 capital and not preserve capital.  
15 So this is one of the asymmetries, Jon,  
16 that I'm talking about, my view and the view of  
17 the boxes about what is risk and what is not.  
18 We're not going to come to an agreement on that  
19 field.  
20 Q. Do you know what percentage of your  
21 portfolio you liquidated in 2007?  
22 A. It was -- I don't remember. It was  
23 not significant. Everything, I don't remember.  
24 Q. More than half?  
25 A. I don't have recollections of that.

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1 CONFIDENTIAL -- Claudio Khamis  
 2 Q. Are there records of that?  
 3 A. Sure. There have been records on the  
 4 accounts.  
 5 Q. In this time period, 2007, 2008, you  
 6 were looking for other investments to place your  
 7 money?  
 8 A. I was starting to look at where to  
 9 place the money, and I -- it caught my  
 10 attention, the electricity grid in the Soviet  
 11 Union, and they had the relationship also with  
 12 Gazprom. I don't recall what the relationship  
 13 was, but Gazprom, besides doing gas and oil and  
 14 banking services, they were also doing  
 15 electricity.  
 16 I don't have a clear recollection of what  
 17 was the analysis at the time.  
 18 Q. I'm going to show you a few more  
 19 emails that may help?  
 20 MR. WALSH: This is Exhibit 5.  
 21 (Whereupon, Khamis Exhibit Number 5,  
 22 email, dated 5/08, was marked for  
 23 identification as of this date.)  
 24 \* \* \* \* \*  
 25 \* \* \* \* \*

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1 CONFIDENTIAL -- Claudio Khamis  
 2 (Whereupon, Khamis Exhibit Number 6,  
 3 email, dated 7/12/08, was marked for  
 4 identification as of this date.)  
 5 Q. Mr. Khamis, I've just given you  
 6 Exhibits 5 and 6. Let's look at 5 first. This  
 7 is an email --  
 8 A. Sorry, which one?  
 9 Q. The email --  
 10 A. Exhibit 5?  
 11 Q. Yes, please.  
 12 This is an email exchange between you and  
 13 Malavika Rajalingam from UBS from May of 2008.  
 14 A. So what's the question?  
 15 Q. Do you recognize the email?  
 16 A. Yeah.  
 17 Q. And do you see here that she is  
 18 providing you the daily news on Russia?  
 19 A. Yeah.  
 20 Q. And was this at your request?  
 21 A. Yes. I don't know if they started  
 22 sending me first and they stopped or I requested  
 23 it. I don't have a recollection of how it  
 24 started.  
 25 But yes.

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1 CONFIDENTIAL -- Claudio Khamis  
 2 Q. You can see she says:  
 3 I will send you the report of Sberbank --  
 4 A. Sberbank.  
 5 Q. Sberbank and the equity strategy  
 6 Russia as soon as I receive them from the  
 7 analysts.  
 8 A. Sure.  
 9 Q. Did she send you those reports?  
 10 A. If she's saying so, I guess she did.  
 11 Q. Was that something that you were  
 12 interested in at this time period, seeing those  
 13 analyst reports?  
 14 A. Yes.  
 15 Q. Why?  
 16 A. I don't remember.  
 17 Q. Did you invest in Sberbank?  
 18 A. I would have to look at my statements  
 19 if I invested in Sberbank at the time. I don't  
 20 recall the last investment, significant, that I  
 21 made is in Sberbank, actually, in 2014.  
 22 But going this date, I don't have a  
 23 recollection of having invested in Sberbank at  
 24 the time  
 25 Q. And did you make any investments in

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1 CONFIDENTIAL -- Claudio Khamis  
 2 Russian equities or bonds?  
 3 A. Yeah, I made investments in Gazprom  
 4 ten years before this date or more.  
 5 Q. Did you make money on that investment?  
 6 A. You asked me that already.  
 7 Yes.  
 8 Q. On Gazprom, you did?  
 9 A. Yes.  
 10 Q. Do you know roughly how much?  
 11 A. No.  
 12 Q. Did you make any other investments,  
 13 besides Gazprom, in Russian securities?  
 14 A. I don't remember.  
 15 Q. Looking at Exhibit 6, this is an email  
 16 from Mr. Kiblsky to you, and you're responding  
 17 to him on July 12, 2008. I recognize it's in  
 18 Spanish.  
 19 Can you tell me, generally, what the email  
 20 is about? You see it's entitled investment  
 21 opportunity.  
 22 A. Where are you looking?  
 23 Q. Start from the top, you write -- [in  
 24 Spanish].  
 25 A. No. It states investment opportunity

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1 CONFIDENTIAL -- Claudio Khamis  
2 with an interrogation sign.  
3 Q. Right. And you responded [in  
4 Spanish].  
5 A. It was a rip-off.  
6 Q. What was the rip-off?  
7 A. This was at the time when people  
8 wouldn't know how to -- how to -- they  
9 wouldn't -- structure products in general. They  
10 would structure paper for a client in which a  
11 client would try to find a counter-party,  
12 usually a bidder, and they would structure a  
13 paper in which it would be look like more than a  
14 game than an investment. This goes within  
15 range, then you get this, and if it goes into  
16 the other range, then you get that. It  
17 wasn't --  
18 So, what was asked here is who are they  
19 selling the hedge. They were selling as  
20 investment product, but they were helping  
21 somebody get a hedge in some calamity that, in  
22 my opinion, about to happen.  
23 I was very hesitant to -- and I was very  
24 annoyed when I saw this.  
25 Q. Let me go back to your investments

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1 CONFIDENTIAL -- Claudio Khamis  
2 strategy in this time period, 2007, 2008. You  
3 previously testified that you had liquidated  
4 some percentage of your portfolio in advance of  
5 the financial crisis.  
6 What were you thinking as you -- let me  
7 just finish the question --  
8 What were you thinking as far as the next  
9 investment opportunities?  
10 MR. BLOOR: Objection.  
11 Q. What were you thinking you were going  
12 to invest in next?  
13 A. Jon, you keep on talking about  
14 investment strategy. I understand a strategy,  
15 like strategy is when somebody has a strategy he  
16 is doing a first step to go into another step to  
17 obtain a result.  
18 I don't behave like this. I don't think  
19 like this.  
20 Q. What was your thinking in this time  
21 period?  
22 A. I don't remember what my thinking was  
23 at the time period.  
24 But I will tell you my thinking about how I  
25 value my investments or how I assess value in

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1 CONFIDENTIAL -- Claudio Khamis  
2 the investments.  
3 Q. Can you do that? Can you explain how  
4 you assess investments?  
5 A. I assess investments based on the  
6 available information that I can understand and  
7 I look for deviations into what I think the  
8 intrinsic value of an asset is and what I think  
9 the price of the market is giving that asset.  
10 So for instance, when people were selling  
11 packages of -- of sub-prime mortgages, I thought  
12 that the value of these packages was very high  
13 compared to the intrinsic value of this package,  
14 given that I couldn't understand how those  
15 people would pay for those loans, if the  
16 property market still keep on going up forever.  
17 So I looked for deviations into what the  
18 market is pricing something, and if there is  
19 something more specific about something, I go  
20 into that and I look at it.  
21 But in general terms, I don't have  
22 something like it varies over time. So what I  
23 was thinking in 2008, it's not clear at the  
24 time.  
25 Q. Can you give me an example of some of

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1 CONFIDENTIAL -- Claudio Khamis  
2 the securities that you were investing in in  
3 2008?  
4 A. I don't recall what investments I was  
5 doing in 2008.  
6 (Whereupon, Khamis Exhibit Number 7,  
7 a email, dated 7/24/08, was marked for  
8 identification as of this date.)  
9 Q. Mr. Khamis, this is an email from you  
10 to Patrick Kiblsky and Guillermo Ide.  
11 Who the is Guillermo Ide?  
12 A. He's another investment employee of  
13 UBS.  
14 Q. It's dated July 24, 2008.  
15 Can you tell me what you're asking  
16 Mr. Kiblsky here?  
17 A. I'm asking him to send an Excel.  
18 This is not -- you want to know what it  
19 means or --  
20 Q. I don't need a literal translation,  
21 just, if you could --  
22 A. Number one, I want an Excel where they  
23 say for the bonds holding in the accounts when  
24 they are paying interest.  
25 Then ask a Russian guy -- I don't know,

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1 CONFIDENTIAL -- Claudio Khamis  
2 recall who he was -- an update for the metrics  
3 of the UES. This is about all the breakup of  
4 UES.  
5 Q. What does UES stand for?  
6 A. Unified Energy System. It was this  
7 Russian electricity grid and generation and a  
8 lot of stuff that I don't understand.  
9 Q. We just talked about.  
10 A. Correct, correct.  
11 Because this, as I told you, once it broke  
12 up, it was very difficult to understand, because  
13 many of the companies didn't have information  
14 available.  
15 Then I'm asking for a new research on  
16 Gazprom to know what people would be saying at  
17 the time of Gazprom.  
18 And then I instruct for Atlantica to buy  
19 one million of Oroscom Telecom to 2014 at a  
20 price of 93 or less, if possible, and to sell a  
21 little negligible position, what we call pucho  
22 and DNS. I don't recall what DNS is.  
23 Q. What was Oroscom Telecom?  
24 A. It was a telephone company that has  
25 a -- that was present in many emerging markets.

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1 CONFIDENTIAL -- Claudio Khamis  
2 Q. Which emerging markets?  
3 A. Egypt, Iraq, Algeria, Bangladesh, if I  
4 recall well, India. It was -- it was a big  
5 company.  
6 Q. Were you making investments in it?  
7 A. Yes.  
8 Q. And why?  
9 A. Because I wanted to make money.  
10 Q. And why did you think you could make  
11 money on that investment?  
12 A. Because it was a company that was very  
13 well managed, and they were in markets that were  
14 growing a lot. That's what I recall.  
15 Q. What did you look at to make the  
16 decision to invest in Oroscom Telecom?  
17 A. What did I look at? At the time the  
18 company was, as I said, growing very well. And  
19 it was -- when I started to invest in Oroscom  
20 Telecom it was -- it wasn't that developed, so I  
21 participated in the growth of the company.  
22 Q. Did you know anyone at the company?  
23 A. Excuse me?  
24 Q. Did you know anyone at that company,  
25 Oroscom Telecom?

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1 CONFIDENTIAL -- Claudio Khamis  
2 A. No.  
3 (Whereupon, Khamis Exhibit Number 8,  
4 email, was marked for identification as  
5 of this date.)  
6 (Whereupon, Khamis Exhibit Number 9,  
7 a market report, was marked for  
8 identification as of this date.)  
9 Q. Mr. Khamis, I've handed you Exhibits 8  
10 and 9. 8 is an email from Guillermo Ide,  
11 entitled Russian daily market news and views.  
12 You see there's an attachment. I'll represent  
13 to you Exhibit 9 is the attachment called  
14 Russian daily. It's an analyst report from  
15 City.  
16 Do you see that?  
17 A. Yes.  
18 Q. Do you know why Mr. Ide was sending  
19 you this analyst report?  
20 A. At the time, as I mentioned, the UBS  
21 was producing a report that was called Russia  
22 Daily, but it was summarized and would give you  
23 a sense of what was going on in Russia at the  
24 time, and I used at the time to have -- if my  
25 memory is right -- at least one relevant

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1 CONFIDENTIAL -- Claudio Khamis  
2 investment. It was Gazprom. Then I had UES and  
3 I don't remember what else related to Russia  
4 might have been.  
5 But it was a period in time where UBS  
6 produced this, and then they stopped producing  
7 it, so during the whole period, and they were  
8 sending to me and every once in a while  
9 something meaningful would show up. Most of the  
10 time nothing.  
11 Q. This report was from Citibank.  
12 Do you recall that they were sending you a  
13 Citibank report?  
14 A. They would send me whatever they send  
15 me.  
16 Q. Do you recall how often they would  
17 send you analyst reports in this time period?  
18 A. In this time period, I remember Daily  
19 Russia, and I remember it was interrupted. I  
20 don't know if it was a family interruption or  
21 there was issues at some point that the flow  
22 would stop, and then I would ask for it, but I  
23 don't recall when it was.  
24 Q. Do you recall, Mr. Kibliskey was  
25 diagnosed with cancer in 2009-2010?

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1 CONFIDENTIAL -- Claudio Khamis  
2 A. Yes, I remember.  
3 Q. How did you learn about that?  
4 A. I learned the same day he discovered,  
5 probably two hours later.  
6 Q. Is he a close friend?  
7 A. We have a, like, with Jackie, the  
8 difference with Patrick is that I see him more  
9 often, because he is also an advisor to the  
10 accounts.  
11 But I would say that he's a -- he's a very  
12 good friend, and a person I care a lot about.  
13 Q. When you dealt with UBS, who was the  
14 person you dealt with to get analyst reports?  
15 Was it Guillermo?  
16 A. The guy who would pick up the phone.  
17 Q. And how would that work? You would  
18 call on a weekly basis, monthly basis?  
19 MR. BLOOR: Objection.  
20 Q. How often did you call UBS?  
21 A. It varies. It depends how -- if I'm  
22 bored, maybe I would call more. If there was  
23 something interesting in the market, I would  
24 call more. It doesn't obey to a pattern. When  
25 there is something that I need to call I call.

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1 CONFIDENTIAL -- Claudio Khamis  
2 But it's not the only reason.  
3 I mean, sometimes I feel like I want to  
4 read more about certain issues or I deem a  
5 report to be well written or the information to  
6 be interesting to try to capture information  
7 from the market or from what goes on, but it  
8 doesn't obey to a pattern.  
9 If you look for the whole period that you  
10 probably analyzed, you won't observe a pattern.  
11 The reason for that is because there is none.  
12 Q. Where were you living in this time  
13 period, 2008?  
14 A. 2000?  
15 Q. '08.  
16 A. I was traveling a lot. I was based  
17 out of Chile at the time. In 2009 I had a  
18 daughter, so I was babysitting for the next  
19 three years entirely, and this was it. I mean,  
20 I was with shorts and sandals and a baby in my  
21 hand and trying to read something.  
22 Q. When was your daughter born, what  
23 year?  
24 A. 2009.  
25 Q. And do you recall what month?

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1 CONFIDENTIAL -- Claudio Khamis  
2 A. Yes, of course, June.  
3 This, I recall  
4 Q. And when she was young, you were in  
5 Chile the majority of the time? Is that fair to  
6 say?  
7 A. That's fair to say.  
8 Q. And how active were you in trading in  
9 this time period 2009, '10, '11?  
10 A. Trading -- trading, what I understand  
11 for trading is buying and selling. I usually  
12 buy, hold it for a long time, and sell. Only  
13 when there is a reason to trade prior to a  
14 longer period is when I engage.  
15 But it's not the focus, looking at the  
16 market and seeing how can I profit from it now,  
17 I most of this stuff is I do is from  
18 fundamentals.  
19 Q. What do you mean by that?  
20 A. Big deviations between -- between what  
21 intrinsic value is and the price is and  
22 understanding the business itself.  
23 Q. How do you go about understanding the  
24 business?  
25 A. I -- it depends on every business.

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1 CONFIDENTIAL -- Claudio Khamis  
2 Q. So we were looking at the electrical  
3 company in Russia.  
4 Did you try to understand what that  
5 business was about?  
6 A. I try to understand what the  
7 generation capacity was, what the generation  
8 needed by the country would be. I would look at  
9 the valuations at the time of this particular  
10 company and try to make an assessment.  
11 Q. And how would you go about  
12 understanding what the generation capacity was?  
13 A. In the reports they said about what  
14 was in terms of capacity. They would give some  
15 information regarding that.  
16 Q. And do you recall what analyst  
17 reports, what banks were producing these analyst  
18 reports --  
19 A. No. I don't recall.  
20 Q. And did you get --  
21 A. And sometimes, if I have a person  
22 handy that understands a lot about the  
23 electricity, I would try to understand more  
24 about the business this way, too.  
25 So it's not about -- the source of



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1 CONFIDENTIAL -- Claudio Khamis  
2 information is not reports only. It's -- it's  
3 many times you can be flooded with reports, but  
4 the reports do not bring information or --  
5 it's -- a report doesn't mean that -- an  
6 analysis is -- is sound or thorough, or  
7 sometimes you read something and you understand  
8 and it does not make much sense, and sometimes  
9 it's very short and can make a lot of sense.  
10 Q. With the Russian investment, did you  
11 actually talk to somebody who is an expert in  
12 electricity?  
13 A. I don't remember.  
14 Q. Do you recall what else you looked at,  
15 besides analyst reports, to make that investment  
16 decision?  
17 A. I don't recall. I would -- I don't  
18 think I just looked at investment reports. I'm  
19 sure I looked at something else.  
20 Q. Did you look at any documents prepared  
21 by the company itself, the Russian company?  
22 A. I don't recall.  
23 Q. What is your typical practice when  
24 making an investment decision? Do you --  
25 You described it a little bit already, but

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1 CONFIDENTIAL -- Claudio Khamis  
2 do typically talk to someone who is an expert in  
3 the field?  
4 A. I think to understand, to -- to invest  
5 in stuff that I understand. That's the first  
6 premise, understand what the -- what the asset  
7 is, what the asset does.  
8 And then it's getting the basic information  
9 that I deem reasonable for -- for every case or  
10 every -- it's not -- it's not the metrics with  
11 the checkbox.  
12 Q. So with the Gazprom investment, how  
13 did you go about researching that investment  
14 before you decided to invest in Gazprom?  
15 A. Gazprom, at the time, Gazprom at the  
16 time, hold a quarter of the total reserves of  
17 the world of gas, and the company was valued  
18 for -- I don't recall, but very few billions, so  
19 it was something that didn't have any logic  
20 compared to nothing. I mean, it was just too  
21 much assets with a price that is very little.  
22 Q. Did you have an understanding of why  
23 the price was so little? Why was Gazprom  
24 undervalued?  
25 A. I'm not the one to explain market

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1 CONFIDENTIAL -- Claudio Khamis  
2 price things. In a way, I just look for the  
3 mis-pricing of the market compared to what my  
4 assessment of the value is.  
5 Q. I forgot to ask you about your MBA.  
6 Did you have a thesis that you were  
7 required to prepare for your MBA?  
8 A. No.  
9 Q. In your university studies, did you  
10 prepare a thesis or have a specialty?  
11 A. No.  
12 I was interested in economics, mainly, and  
13 industrial organization, duopolies, bundling,  
14 how this effect the company, how this effect the  
15 economy.  
16 Q. You mentioned before that you invest  
17 in companies in industries that you understand.  
18 What are the industries that you feel you  
19 understand?  
20 A. It's -- when -- I could say I  
21 understand -- or I understood at the time what  
22 was the business in gas for the Russians.  
23 Energy, banking. Banking, I would say I  
24 understand quite a lot.  
25 Q. And what is that basis of knowledge

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1 CONFIDENTIAL -- Claudio Khamis  
2 based on? What is your experience in banking?  
3 You feel comfortable saying that's an area you  
4 understand.  
5 A. My basis for that is my studies and my  
6 understanding of banks.  
7 Q. Would this include the bank in Chile  
8 that your family owned?  
9 A. Excuse me?  
10 Q. Does that include the bank in Chile  
11 that you owned?  
12 A. Yeah.  
13 Q. And did you work in the bank? I  
14 didn't ask this before.  
15 A. I was on the board of directors of one  
16 of the banks, and I participated in the  
17 creator's committee. I was a witness of many  
18 acquisitions of banks and financial  
19 institutions.  
20 Q. And do you understand what makes banks  
21 profitable?  
22 A. I think I have a good understanding of  
23 that.  
24 Q. Could you share with us what your  
25 understanding is, what makes a bank profitable?

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1 CONFIDENTIAL -- Claudio Khamis  
2 A. A bank is profitable when they manage  
3 a few variables, but I'm not going to cover all  
4 of them.  
5 But in the basic banking business, the  
6 more, the core to it is getting money and  
7 lending money for -- for an income that is  
8 higher than the cost of sourcing the money  
9 from -- for the bank.  
10 Q. Are you familiar with what a  
11 nonperforming loan is?  
12 A. Yes.  
13 Q. What is a nonperforming loan?  
14 A. A loan that is not performing, that is  
15 not paying.  
16 Q. The people that are going to hear this  
17 case may not be familiar with what an NPL is.  
18 Right, that's the abbreviation?  
19 A. Yeah.  
20 Q. For a layperson like myself, how would  
21 you describe a nonperforming loan?  
22 A. It's a troubled loan. It's a loan  
23 that's not performing, as the name says.  
24 Q. So that means the borrower is not  
25 repaying the loan?

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1 CONFIDENTIAL -- Claudio Khamis  
2 A. Correct.  
3 Q. And there's a risk that the loan may  
4 not be repaid at all?  
5 A. Correct.  
6 Q. Is it fair to say that if a bank has  
7 enough nonperforming loans, the bank cannot be  
8 profitable?  
9 MR. BLOOR: Objection.  
10 You can answer.  
11 Q. Well, let me ask a different question  
12 to overcome the objection.  
13 What is the effect of having nonperforming  
14 loans on a bank?  
15 A. The effect of having a nonperforming  
16 loan will eat out of your capital, because a  
17 bank well managed with provision on performing  
18 loans.  
19 Q. What does that mean, provision?  
20 A. Provision is account, for write-off  
21 provisionally, until we see if the bank is going  
22 to be able to collect or not, and you can end up  
23 writing it off permanently at some point.  
24 Q. So a bank would set up a reserve for  
25 nonperforming loans?

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1 CONFIDENTIAL -- Claudio Khamis  
2 A. It depends. In different countries  
3 the wording is different, but the accounting  
4 principal is the same.  
5 It's not to fool yourself by having assets  
6 that you would add or think that you have that  
7 actually are nonperforming.  
8 Q. How does a bank go about determining  
9 what reserves it needs for nonperforming loans?  
10 A. You -- you analyze the portfolio of  
11 loans.  
12 Q. And how do you go about doing that?  
13 A. You assess the quality of the  
14 creditor.  
15 Q. So if you have a number of loans in  
16 the construction industry, you would look at the  
17 borrowers in the that industry and determine  
18 whether they can repay the loan?  
19 A. A good job regarding that is looking  
20 credit by credit and knowing exactly the  
21 business of each one of your clients.  
22 Q. And do you also look at the country  
23 where the borrowers are located in determining  
24 whether that's a performing loan?  
25 A. Not really.

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1 CONFIDENTIAL -- Claudio Khamis  
2 Q. Why not?  
3 A. Because you have to do it. This  
4 sounds like discrimination, Mr. Walsh. Why --  
5 why would you -- it's about the feasibility of  
6 him paying you.  
7 Q. Do you look at the industry of the  
8 borrower is in to determine the credit  
9 worthiness of the borrower?  
10 A. You look at all sorts of factors. You  
11 look about how the business, how sound the  
12 business is, what is the market risk of the  
13 business, what is the capitalization of the  
14 company that borrow -- that lends you the money.  
15 You look about whether the investments that this  
16 company made and how -- how they are going to  
17 pay them back.  
18 Q. And do you also look at the security  
19 that collateralizes the loan?  
20 A. Excuse me?  
21 Q. Do you also look at the security for  
22 the collateral?  
23 A. The collateral?  
24 Q. Yes.  
25 A. Yes. Of course you look at collateral

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1 CONFIDENTIAL -- Claudio Khamis  
2 when there is. Sometimes loans have no  
3 collateral.  
4 I would like to know what the collateral is  
5 for all the loans that the system here has given  
6 to GE.  
7 Q. Have you done that process.  
8 Mr. Khamis? Have you been involved in looking  
9 at a portfolio of loans and evaluating which of  
10 those loans is nonperforming?  
11 A. At the time, I -- this -- my  
12 experience, I don't know what's done in all the  
13 world, it was done by a committee of people that  
14 look at them and -- and make assessment, and  
15 it's prepared on different layers.  
16 But I don't know how it's done in every  
17 different country.  
18 Q. What else do you look at when you're  
19 looking at a bank as a potential investment?  
20 What other factors do you consider in deciding  
21 to invest in a banks?  
22 A. The size --  
23 MR. BLOOR: Objection.  
24 You can answer.  
25 MR. WALSH: Let me rephrase.

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1 CONFIDENTIAL -- Claudio Khamis  
2 THE WITNESS: That's fine, that's  
3 fine.  
4 MR. WALSH: Just to make sure the  
5 record is clear.  
6 Q. What are the other factors that you  
7 look at?  
8 A. It depends on -- on the case.  
9 Sometimes you can look at the market cap of the  
10 bank or the price to book, for instance, for  
11 Sberbank, and make an assessment on -- on what  
12 the valuation of the bank is, if it's  
13 undervalued or overvalued. You also want to  
14 know eventually the diversification of the  
15 loans.  
16 Usually the biggest banks like Sberbank  
17 have a very well diversified loan portfolio or  
18 have exposure to many industries, and they  
19 tend -- the biggest banks in a country tend to  
20 represent fairly good the economy, or not to  
21 deviate that much from that representation,  
22 saying -- saying, in other words.  
23 Q. Do you look at the economy of the  
24 country where the bank is located in determining  
25 whether to invest?

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1 CONFIDENTIAL -- Claudio Khamis  
2 A. Sure.  
3 Q. Why?  
4 A. Because the health of the economy has  
5 a lot to do with the health of your creditors.  
6 Q. Explain that.  
7 A. In what sense?  
8 Q. What do you mean? How does the  
9 economy affect --  
10 A. Can you be more precise --  
11 Q. I can.  
12 How does the health of the economy affect  
13 the health of the creditors?  
14 A. An economy that is a healthy, that is  
15 growing, that doesn't have inflation, business  
16 usually is do good in that environment.  
17 Businesses do good in that environment. They  
18 are usually capable of repaying back their  
19 loans.  
20 MR. WALSH: We can take a break now,  
21 and I'm going to organize my exhibits and  
22 transition.  
23 Off the record.  
24 THE VIDEOGRAPHER: The time is  
25 11:33. We are going off the record.

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1 CONFIDENTIAL -- Claudio Khamis  
2 (Whereupon, a brief recess was  
3 taken.)  
4 (Whereupon, Khamis Exhibit  
5 Number 10, email, was marked for  
6 identification as of this date.)  
7 (Whereupon, Khamis Exhibit  
8 Number 11, UBS statement, dated 8/09, was  
9 marked for identification as of this  
10 date.)  
11 THE VIDEOGRAPHER: The time is  
12 11:49 a.m. This begins media number 2.  
13 Q. Mr. Khamis, if you could look at  
14 Exhibit 10. It's an email from you to UBS  
15 again.  
16 Do you see it references Maxcom?  
17 A. Yeah.  
18 Q. Was that one of your investments?  
19 A. At some point it was. I don't  
20 remember, but at the time it was. It was a  
21 bond.  
22 Q. And what did the company do?  
23 A. Telco.  
24 Q. Where was it located?  
25 A. Mexico.



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1 CONFIDENTIAL -- Claudio Khamis  
2 Q. And why did you decide to invest in  
3 Mexico?  
4 A. This was an investment that Patrick  
5 understood the business itself a lot, and for  
6 this particular investment, I was following his  
7 advice, I think, on this. He explained some of  
8 it, some of the basics. I don't remember if I  
9 read some report on it or not.  
10 But it was not one of my preferred  
11 investments and nothing that I paid too much  
12 attention to.  
13 Q. Did Mr. Kiblsky provide advice on  
14 other investment opportunities?  
15 A. Mr. Kiblsky provide only advice on --  
16 on very limited investments, and I would say  
17 this was one of investments he provided advice,  
18 because he knew a lot about the company  
19 Q. Do you know how he knew a lot about  
20 the company?  
21 A. He was -- I think he knew one of the  
22 directors of the company, but he was pretty  
23 familiar with the -- with the seriousness of the  
24 management of the company, so he deemed it to be  
25 an investment, I should invest in it.

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1 CONFIDENTIAL -- Claudio Khamis  
2 Q. Do you know who Jacques Gliksberg is?  
3 A. Yes.  
4 Q. Was he one of the people involved in  
5 Maxcom?  
6 A. I think he was one of the directors or  
7 some relationship with Maxcom.  
8 Q. Have you met Mr. Gliksberg?  
9 A. If my recollection is right, I met  
10 with him only one time.  
11 Q. Was this at the birthday party of  
12 Mr. Gliksberg's wife?  
13 A. No. It was not Mr. Gliksberg's wife,  
14 because I don't have any relationship with him.  
15 It was --  
16 Q. No. Sorry. Mr. Kiblsky's wife's  
17 50th birthday.  
18 A. I don't know if it was a bar mitzvah  
19 or some sort of a celebration. Probably, it was  
20 a birthday  
21 Q. In Santiago?  
22 A. In Santiago, yes.  
23 Q. And do you know if Mr. Gliksberg was  
24 involved in Maxcom at that time?  
25 A. I don't recall.

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1 CONFIDENTIAL -- Claudio Khamis  
2 Q. Do you recall any of your discussions  
3 with Mr. Gliksberg at the birthday party?  
4 A. I didn't discuss at birthdays, in  
5 general. I don't discuss when I don't have to.  
6 Q. There's been prior testimony,  
7 Mr. Khamis, that there was a birthday party in  
8 Santiago for Patrick Kiblsky's wife.  
9 Do you recall attending that birthday  
10 party?  
11 A. I have been at many of Patrick's  
12 celebrations. I don't recall this particular  
13 one.  
14 I remember that he -- he remarried like for  
15 with the same wife for the second time, which  
16 was for me, like, a little bit strange, to say  
17 the least, and this was a very big celebration  
18 and ...  
19 Q. But you don't recall talking to  
20 Mr. Gliksberg?  
21 A. We were sitting on the same table.  
22 I remember that this was close to a theft I  
23 had.  
24 Q. This was the mugging? You were mugged  
25 in Santiago?

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1 CONFIDENTIAL -- Claudio Khamis  
2 A. What? I don't know the meaning of the  
3 mugging.  
4 Q. There was a theft. Someone tried to  
5 steal property from you.  
6 A. No. I was assaulted by five guys with  
7 handguns, and they took my car. They hijacked  
8 me for a few minutes, and ...  
9 Q. Do you know what year that was?  
10 A. 2014, roughly, but I could be wrong.  
11 Q. Did they ever catch the guys who  
12 assaulted you?  
13 A. They were identified.  
14 Q. And did you provide any financial  
15 assistance to any of those individuals?  
16 A. I offered scholarships to them.  
17 Q. Why?  
18 A. It's a good question. First of all, I  
19 thought it would be great if they would take  
20 them and convert an aggression into -- into  
21 something that would make -- make the world a  
22 little bit better. I don't know. It was  
23 something instinctive, so --  
24 I mean, it was very hard for me at the  
25 time, what happened.

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1 CONFIDENTIAL -- Claudio Khamis  
2 Q. Did you get hurt?  
3 A. They beat me a little bit, but there  
4 was a moment of the theft that they instructed  
5 the underage kid to shoot me, because they  
6 always use the guys who are not liable in the  
7 law, so they were shouting at him when the --  
8 they told -- there is a moment in which they  
9 tried to get me out of the car, and the car is  
10 automatic and it was in D, in drive, but the  
11 brakes -- but I was immobilized, one hand, two  
12 guys, four hands here, the other guys on the  
13 stairs like this, taking everything --  
14 And they said okay, out of the car now. So  
15 the moment I turned, I took the feet out of the  
16 brake, and the car begins to move, and at this  
17 moment they saw that they was trying to do  
18 something, so they instruct the kid to shoot,  
19 and I was looking at the gun here, and I was  
20 trying to turn myself with the assumption that  
21 if the bullet coming a little bit more to this  
22 side it wouldn't be that damaging, but it --  
23 It was quite shocking.  
24 Q. Did any of the individuals take you up  
25 on your offer for scholarships?

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1 CONFIDENTIAL -- Claudio Khamis  
2 A. No.  
3 Q. Did they go to jail?  
4 A. No.  
5 Q. Circling back to Mr. Kiblsky and  
6 Mr. Gliksberg, did you have any other  
7 discussions with Mr. Gliksberg, besides the  
8 birthday party that we talked about? Did you  
9 ever meet him otherwise?  
10 A. In other places? No.  
11 Q. Did you ever talk to him on the phone?  
12 A. No.  
13 Q. He was a plaintiff in this lawsuit.  
14 Do you know that?  
15 A. Yes.  
16 Q. Did you ever have any discussions with  
17 him about the lawsuit?  
18 A. About the lawsuit? No.  
19 Q. Mr. Gliksberg and the two other  
20 individuals withdrew from the case.  
21 Are you aware of that?  
22 A. Yeah, I know.  
23 Q. Do you know why they withdrew?  
24 A. I don't know the exact reasons, but  
25 they knew that at some point there was a lot of

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1 CONFIDENTIAL -- Claudio Khamis  
2 legal work that was extremely -- only pertinent  
3 to them, like damages expert and stuff, so I  
4 guess that the amount of their investment  
5 compared to the expenses that they had to incur  
6 to defend what was individual to them, didn't  
7 make any sense.  
8 But I'm not sure about it. I never talked  
9 to any of them about it.  
10 Q. They had the same lawyer as you;  
11 right?  
12 A. Yeah.  
13 Q. Mr. Jaffe?  
14 A. Yeah.  
15 Q. Mr. Jaffe withdrew from the case as  
16 well.  
17 Do you know why Mr. Jaffe withdrew?  
18 A. I think I'm not supposed to discuss  
19 with you what I talk with my lawyer. You're a  
20 lawyer. You should know that.  
21 MR. BLOOR: You can answer yes or  
22 no, but you don't have to disclose your  
23 conversation --  
24 A. You want to know whether internal  
25 discussions about the case?

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1 CONFIDENTIAL -- Claudio Khamis  
2 Q. No, Mr. Khamis. If you can't answer,  
3 that's fine.  
4 I take it you're taking your lawyer's  
5 instruction not to disclose attorney-client  
6 discussions, is that right?  
7 A. Excuse me?  
8 Q. I'll ask a yes or no question, which  
9 Mr. Bloor, I think, said you can answer, right?  
10 Do you know why Mr. Jaffe withdrew from the  
11 case?  
12 MR. BLOOR: So answer that yes or  
13 no.  
14 A. It's a hard question to answer yes or  
15 no. I -- I would say, I tend to think I don't  
16 know.  
17 Q. I'll ask a follow-up question. If  
18 your lawyer instructs you not to answer, follow  
19 your lawyer's advice.  
20 Can you tell me why Mr. Jaffe withdrew from  
21 the case?  
22 MR. BLOOR: Yeah, I'll instruct you  
23 not to answer that under attorney-client  
24 privilege.  
25 A. I told him already, I don't know.

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1 CONFIDENTIAL -- Claudio Khamis  
2 MR. BLOOR: That's fine.  
3 Q. At some point, Mr. Khamis, you decided  
4 to invest in TuranAlem Finance; correct?  
5 A. I think that was the technical name  
6 given to the BTA bonds.  
7 Q. If you look at Exhibit 11, this is the  
8 trade confirmation for your first investment in  
9 TuranAlem?  
10 A. Yes.  
11 Q. You'll see you bought approximately  
12 five million face value.  
13 A. Where is the face value on here?  
14 Q. If you look at the second column --  
15 A. Oh, yes, yes, yes.  
16 Q. And this was in August of 2009?  
17 A. Yes.  
18 Q. Do you see the trade date?  
19 A. Yes.  
20 Q. Why did you decide to invest in this  
21 security?  
22 A. There was -- I was interested in  
23 Kazakhstan since the '90s, and at the time, I  
24 didn't have enough liquidity to invest in  
25 Kazakhstan. I was attracted to Kazakhstan

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1 CONFIDENTIAL -- Claudio Khamis  
2 because of its natural resources, the size of  
3 the country. They were very big in oil, big in  
4 gas, big in uranium, big in gold, extremely  
5 extensive farmland, right next to China, right  
6 next to Russia, so it seemed like a very  
7 interesting and it was completely overlooked.  
8 Prior to the time I invest, I was offered  
9 other investments that didn't have an intrinsic  
10 value that would deviate for -- from its market  
11 value in the fixed income market. At the time  
12 this -- so I asked my advisor to find me  
13 investments in Kazakhstan that I could evaluate.  
14 And the assessment of the investment that I  
15 made was that the -- the intrinsic value of the  
16 bond assumed the structure of value in the loan  
17 portfolio that I didn't think at the time was  
18 reasonable.  
19 Q. Why not?  
20 A. Because as I said, it was way too big  
21 loss of a loan portfolio that was very close to  
22 the date with the \$3 billion, and we didn't  
23 think that \$23 billion can evaporate just like  
24 this.  
25 And it was very important and relevant that

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1 CONFIDENTIAL -- Claudio Khamis  
2 it was the biggest bank in the country with  
3 exposure to all sectors in the economy, so this  
4 was the -- this is the reason why I invested in  
5 this.  
6 Q. When did you first hear of BTA Bank or  
7 its predecessor?  
8 A. Prior to this investment, but not that  
9 much prior. I don't remember exactly.  
10 Q. And do you know if Mr. Kiblsky  
11 recommended BTA to you?  
12 A. Mr. Kiblsky's role is to present  
13 investments, and I -- I make the assessment.  
14 I would say that one of the few examples  
15 where -- where this didn't happen was in the  
16 Maxcom business, because it was a small company  
17 in Mexico that he knew more about the business  
18 and the business model that was being developed  
19 and what were the implications at the time of  
20 the breakup of the monopoly that was expected of  
21 Telmex and how that would impact Maxcom  
22 positively, so there was a pure Mexican play  
23 that had some structure of things that made a  
24 lot of sense, like -- like a monopoly having to  
25 cease its predatory practices and --

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1 CONFIDENTIAL -- Claudio Khamis  
2 Q. Let me go back to BTA. I'm going to  
3 hand you Exhibit 11.  
4 (Whereupon, Khamis Exhibit  
5 Number 12, email, was marked for  
6 identification as of this date.)  
7 Q. Mr. Khamis, Exhibit 12 is an email  
8 from Pamela Groom at UBS to a number of other  
9 people at UBS, including Mr. Kiblsky.  
10 Do you see that on the CC line?  
11 A. Yes.  
12 Q. And Ms. Groom has attached a  
13 spreadsheet in multiple colors, and I'll  
14 represent to you that the people listed on this  
15 spreadsheet are other clients of Mr. Kiblsky  
16 and his colleagues at UBS, including the  
17 Kiblsky brothers and Mr. Glikberg, who were  
18 plaintiffs in this case.  
19 A. So this was sent from whom to whom?  
20 Q. This was an internal UBS document from  
21 Pamela Groom at UBS to Patrick Kiblsky and  
22 others.  
23 A. Okay.  
24 Q. Attached what she's called multiple  
25 unsolicited orders.

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1 CONFIDENTIAL -- Claudio Khamis  
2 A. What is that? What does that mean?  
3 Q. Well, let me ask the question, first  
4 If you turn to the page, do you see the  
5 numbers on the bottom right, bottom right? It's  
6 page 4 of 5.  
7 At the bottom of that spreadsheet, do you  
8 see in maroon, Atlantica Holdings and Baltica  
9 Holdings? And I know it's a little hard to read  
10 in color --  
11 A. The very last? Yes, I see something,  
12 that I cannot read it well.  
13 Q. Well, I'll read it for you.  
14 It shows a trade for Atlantica Holding in  
15 August of 2008, which corresponds to Exhibit 11,  
16 and that's the trade for Atlantica, and another  
17 trade for Baltica also in August of 2009.  
18 Do you recall that your other account, you  
19 made a purchase of TuranAlem in Baltica as well;  
20 right?  
21 A. Yes.  
22 Q. Did you know that Mr. Kiblsky's other  
23 clients had also invested in TuranAlem in this  
24 time period?  
25 A. No.

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1 CONFIDENTIAL -- Claudio Khamis  
2 I know now. I know that -- I know later  
3 that his brothers were invested and the  
4 Gliksberg was invested, but I didn't know that  
5 more people were invested.  
6 Q. And they all invested around this time  
7 period, August of 2009.  
8 Does that refresh your recollection whether  
9 you purchased these TuranAlem notes at the  
10 advice of Mr. Kiblsky?  
11 MR. BLOOR: Objection.  
12 You can answer.  
13 A. As I told you before, I -- it's very  
14 rare the case where somebody can give me advice  
15 on financial stuff.  
16 Q. Do you recall any discussions with  
17 Mr. Kiblsky in this time period about BTA?  
18 A. What was the discussed with  
19 Mr. Kiblsky about BTA was about the country.  
20 It was a country in which I requested  
21 investment, not he -- I -- I was mentioning  
22 Kazakhstan for a very long time prior to this  
23 investment, a very long time, I don't know how  
24 many months, but I remember getting frustrated  
25 by not seeing something from Kazakhstan,

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1 CONFIDENTIAL -- Claudio Khamis  
2 something I now regret.  
3 Q. Have you ever been to Kazakhstan?  
4 A. No.  
5 I don't think I'm going.  
6 Q. What did --  
7 What brought your attention to the country  
8 of Kazakhstan?  
9 A. I mentioned to you that already.  
10 Q. But was it a report or --  
11 I know it's a long time ago, but what was  
12 the information?  
13 A. In the -- in the '90s where -- where  
14 the big Russian giants were beginning to develop  
15 and were privatized, they were mostly companies  
16 in Russia about natural resources and very good  
17 businesses. At that time, where I didn't have  
18 the possibility to invest, I had access to what  
19 was privatized in Kazakhstan and --  
20 I'm going to correct myself. I don't even  
21 know if it was privatized, but there were  
22 stocks. There was a possibility to invest in  
23 their stock.  
24 And it caught my attention, the vast  
25 resources of the country. There was, as I

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1 CONFIDENTIAL -- Claudio Khamis  
2 mentioned, gas, oil, uranium, gold, and a lot of  
3 other stuff that I don't recall, but I recall it  
4 was a pretty extensive list, probably as  
5 extensive than Russia, and the size of the  
6 country also caught my attention, and that the  
7 population was not that big also caught my  
8 attention.  
9 So I said listen, this country is going to  
10 eventually go to a very high GDP per capita.  
11 This is the later analysis. The prior was -- I  
12 mean, what is this? I mean, so many natural  
13 resources, so big.  
14 At the time, when I made this investment,  
15 the -- an investment in the biggest bank of the  
16 country that was hit by the financial crisis,  
17 like all the rest of the world, bonds that trade  
18 to a value that have an implicit destruction of  
19 their assets, that didn't seem plausible, made  
20 the investment case at the moment.  
21 I don't recall Patrick, besides with his --  
22 I think he brought to my attention that they  
23 had -- that the country was so well managed that  
24 they had a corporate pension fund system that is  
25 a pension fund done pretty much by Chicago boys,

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1 CONFIDENTIAL -- Claudio Khamis  
2 in which you have private capital accounts, so  
3 it's not all melded. Many pension funds in the  
4 world where people put in money and the elderly  
5 take money out. This is about you putting your  
6 savings in -- in individual accounts that you  
7 can monitor and you can even later on developed  
8 into changing the risk profile, so you're  
9 younger, you can invest in more longer-term  
10 stuff and eventually may be a little more risky,  
11 and as you get older you're going to more  
12 conservative, because you are more close to the  
13 point in which you have to sell it.  
14 So this sort of things caught --  
15 But I don't remember any specifics about  
16 the discussions between, besides what I  
17 mentioned, and this was the basis for my  
18 investment.  
19 Q. Did you invest in any other Kazakh  
20 banks in this time period?  
21 A. I don't recall.  
22 Q. Do you recall a bank named Alliance  
23 Bank?  
24 A. I was about to mention that eventually  
25 Alliance was very minor investment, if my memory

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1 CONFIDENTIAL -- Claudio Khamis  
2 is right, but I don't recall the -- Alliance, to  
3 me, is something that, as of today, means some  
4 noise, but I don't -- I'm not sure where to  
5 position it in the history of what I analyzed or  
6 what I invested in.  
7 Q. In your discussion with Mr. Kiblsky,  
8 was it about Kazakh banks generally or just  
9 about BTA?  
10 A. No. Our -- they -- I don't usually  
11 manage 40 investments or financial investments  
12 or bonds or whatever.  
13 I try to focus, and I try to concentrate in  
14 what I think makes the most sense. A very smart  
15 guy, or at least I deem him as being smart, says  
16 why would you invest in your 12th best idea, if  
17 you have, probably, four very or five very good  
18 ideas.  
19 So I -- I tend to understand and to make  
20 sense about the stuff I'm doing, and I try to do  
21 it in a size that is meaningful within the  
22 portfolio.  
23 Q. Do you recall any other discussions  
24 with Mr. Kiblsky about BTA or even Kazakh  
25 banks?

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1 CONFIDENTIAL -- Claudio Khamis  
2 MR. BLOOR: Objection to form.  
3 You can answer  
4 Q. In this time period. Let me rephrase  
5 just to correct the record. Let me rephrase.  
6 Do you recall any discussions in this 2008  
7 time period about BTA with Mr. Kiblsky?  
8 A. Besides what I just mentioned? No.  
9 Q. This is Exhibit 11 from Mr. Kiblsky's  
10 deposition, and we've had it translated,  
11 Mr. Khamis, into English.  
12 If you turn to the page stamped --  
13 A. The deposition, was it in Spanish?  
14 Q. No. The document is in Spanish.  
15 If you see the page with 1220 at the  
16 bottom, the second page?  
17 A. Yeah.  
18 Q. This is an email Igal Yacher to  
19 Mr. Kiblsky.  
20 Do you know who Igal Yacher is?  
21 A. Yeah.  
22 Q. Who he is?  
23 A. He's another person that works, like  
24 Guillermo Ide, with Patrick  
25 Q. Have you ever seen this email before?

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1 CONFIDENTIAL -- Claudio Khamis  
2 MR. BLOOR: Just to be clear, this  
3 is a translation, presumably --  
4 MR. WALSH: Well, I'll correct the  
5 record.  
6 A. If you show me the email in Spanish,  
7 maybe I can recollect better.  
8 Q. Let me just clarify what this document  
9 is, so there's been prior testimony about this.  
10 Most of this email is in English. The only  
11 part that is in Spanish is the top, [in  
12 Spanish], and the bottom, right above  
13 Mr. Yacher's signature line, he writes:  
14 BTA loan portfolio [in Spanish].  
15 Do you see that?  
16 A. Yeah, yeah.  
17 Q. What does that mean?  
18 A. [In Spanish], they run away with the  
19 money.  
20 Q. So have you seen this email before?  
21 A. What was the date of this?  
22 Q. It's dated August 20, 2009.  
23 A. No. I don't think I saw this email.  
24 I don't recall it.  
25 Q. If you see the attachment, it's an



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1 CONFIDENTIAL -- Claudio Khamis  
2 update on the restructuring process, dated  
3 August 18, 2009.  
4 Have you seen that document?  
5 A. Excuse me?  
6 Q. The attachment is a presentation from  
7 BTA Bank --  
8 A. Of August 19?  
9 Q. Right.  
10 Have you seen that document before?  
11 A. It's very similar of the presentation  
12 of the one of May 2000 and whatever, no? I have  
13 to see it in colors to, to --  
14 Q. Let me ask a more basic question  
15 During this time period, 2008 when you were  
16 investing in TuranAlem Finance, did you go on  
17 the BTA website and download presentations?  
18 MR. BLOOR: Objection to form.  
19 Q. Well, did you know that there were  
20 presentations available on the BTA website in  
21 this time period?  
22 A. At some point, I know.  
23 MR. BLOOR: Can we just define the  
24 time period.  
25 MR. WALSH: August of 2009.

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1 CONFIDENTIAL -- Claudio Khamis  
2 MR. BLOOR: Okay. August of 2009.  
3 A. I'm not sure about what I was aware of  
4 in 2009.  
5 The first investments in BTA were done in a  
6 very -- under the premise that I just mentioned  
7 to you.  
8 This was, I assume, post state  
9 intervention?  
10 Q. Do you know?  
11 A. I don't know.  
12 Q. Do you recall looking at any documents  
13 relating to BTA before you decided to buy  
14 TuranAlem Finance in August of 2009?  
15 A. I don't -- I don't recall what I  
16 looked at. I recall the very basics, as I just  
17 mentioned, as being very significant into making  
18 that -- that investment decision was the  
19 assessment that \$23 billion do not vanish.  
20 And here this document is speaking about  
21 61.6 percent of the bank portfolio and loan loss  
22 provisions.  
23 Q. Were you aware of that fact, that a  
24 large percentage of the loans had been  
25 controlled by the former management?

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1 CONFIDENTIAL -- Claudio Khamis  
2 A. At the time, I -- there was -- there  
3 was -- I don't know if the right word is rumors  
4 or whispers or -- but -- but there was knowledge  
5 that there was an issue with the previous bank  
6 owner.  
7 Q. Do you know his name?  
8 A. Yes.  
9 Q. What is his name?  
10 A. Mukhtar Ablyazov.  
11 MR. WALSH: We'll get you the  
12 spelling.  
13 A. But I didn't know his name at the  
14 time.  
15 Q. Have you ever met Mr. Ablyazov?  
16 A. Yes.  
17 Q. When did you meet him?  
18 A. I met him -- I met him this year, and  
19 I don't remember the month.  
20 Q. Where did you meet him?  
21 A. Probably --  
22 Excuse me?  
23 Q. Where did you meet him?  
24 A. I don't know.  
25 Q. Was it in New York?

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1 CONFIDENTIAL -- Claudio Khamis  
2 A. No. It was not in New York.  
3 It was in France.  
4 Q. And you don't recall which month?  
5 A. No. I don't recall which month.  
6 Q. Do you recall which season?  
7 A. It wasn't cold.  
8 Q. And where in France did you meet him?  
9 A. I don't know.  
10 Q. Was it at a hotel?  
11 A. I don't know where we met. I -- I was  
12 picked up in Switzerland and I drove there, but  
13 I wasn't driving, and I don't know my way around  
14 there.  
15 Q. How did this meeting come about?  
16 A. What is your question?  
17 Q. Well, you met Mr. Ablyazov. How did  
18 you --  
19 How it happen? How did that meeting come  
20 about?  
21 A. What was the purpose of the meeting?  
22 Q. Well, did you ask to meet him, or did  
23 he reach out to you, or was it something else?  
24 MR. BLOOR: Objection.  
25 You can answer.

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1 CONFIDENTIAL -- Claudio Khamis  
2 A. I don't know if it's -- if he had -- I  
3 certainly had interest in finding facts and  
4 being able to -- to talk to Mr. Ablyazov and  
5 listen to -- to his version of the story,  
6 because after many, many years being involved in  
7 this case, the official Kazakh government  
8 version didn't -- didn't make any sense to me.  
9 Q. Why not?  
10 A. It didn't make any sense to me because  
11 the amount of assets or the claim that the  
12 former owner was a thief of his own bank, when  
13 he owned more than 60 percent of the bank didn't  
14 make sense, because for every dollars you steal  
15 you lose between \$5 of the bank trade in  
16 emerging market of \$15. It's just a number that  
17 didn't make any sense, that he owned  
18 60-something percent of the bank, to my  
19 knowledge, not two percent of the bank.  
20 In some places people can control companies  
21 with two or three percent. This was not the  
22 case.  
23 Q. Was that the first time that you met  
24 Mr. Ablyazov?  
25 A. This year, yes.

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1 CONFIDENTIAL -- Claudio Khamis  
2 Q. And who else was at the meeting?  
3 A. Listen, your questions are pointing in  
4 a direction that are putting in risk the  
5 security of Mr. Ablyazov and his relatives. I  
6 don't know what it has to do with this fact  
7 finding, but I'm going to -- I'm going to say it  
8 was a relative of him  
9 Q. And was anyone else not related to  
10 Mr. Ablyazov at this meeting?  
11 A. No.  
12 Q. Were any of your lawyers at the  
13 meeting?  
14 A. No.  
15 Q. And you requested the meeting?  
16 A. I don't remember how it came about,  
17 but I certainly have interest in listening to  
18 his version of the story.  
19 Q. What did he tell you?  
20 A. He told me that he was a political  
21 opponent, and that the Kazakh government took  
22 advantage of the asset compression in the  
23 financial crisis to take control of the bank  
24 by -- by something that was not asked for any  
25 other bank, pretty much, globally. It was a

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1 CONFIDENTIAL -- Claudio Khamis  
2 time in which banks were given financial  
3 support, and nobody was doing stress tests at  
4 the banks at the moment. They were trying to  
5 give liquidity, and this bank, according to his  
6 version, was as good as Halyk. That is  
7 certainly a very well-run bank.  
8 So different from the official version  
9 about the person that took money away and run.  
10 That was is what the email pretty much what he  
11 said. I think that's what my answer is.  
12 THE WITNESS: Before you make  
13 another question, sir, I would like to  
14 run to the bathroom.  
15 MR. WALSH: Sure. We can go off the  
16 record.  
17 THE VIDEOGRAPHER: The time is  
18 12:26. We are going off the record.  
19 (Whereupon, a lunch recess was taken  
20 from 12:37 p.m. to 1:20 p.m.)  
21 THE VIDEOGRAPHER: The time is  
22 1:20 p.m. We are back on the record.  
23 Q. Mr. Khamis, are you familiar with the  
24 Kazaword database?  
25 A. I know what it is.

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1 CONFIDENTIAL -- Claudio Khamis  
2 Q. What is it?  
3 A. It is a database that was made public  
4 on the web at some point.  
5 Q. And what's in it?  
6 A. Excuse me?  
7 Q. And what is in it?  
8 A. I don't know what is in it.  
9 Go ahead with your question.  
10 Q. Have you received any documents from  
11 the Kazaword database?  
12 A. I received a Kazaword database.  
13 Q. From whom?  
14 A. From a person in Switzerland.  
15 Q. What is his name?  
16 A. I don't remember his name. He's a  
17 bailiff.  
18 Q. And how did he or she obtain the  
19 Kazaword database?  
20 A. I don't know.  
21 Q. When did you receive the database from  
22 the Swiss bailiff?  
23 A. I think it was only this year.  
24 Q. Was it before or after your meeting  
25 with Mr. Ablyazov?

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1 CONFIDENTIAL -- Claudio Khamis  
2 A. After -- no. Before, before.  
3 Q. How did you meet the Swiss bailiff?  
4 MR. BLOOR: Objection to form.  
5 A. I met the Swiss bailiff through a -- I  
6 contacted the Swiss bailiff through my lawyer.  
7 Q. Mr. Jaffe?  
8 A. Yes.  
9 Q. And did you direct Mr. Jaffe to reach  
10 out to the Swiss bailiff?  
11 MR. BLOOR: Objection.  
12 You can answer yes or no.  
13 A. I don't recall exactly how that  
14 worked. My -- I instructed Mr. Jaffe to contact  
15 the previous owners of BTA Bank to help me  
16 understand some facts.  
17 Q. What caused you to do that?  
18 A. Caused me to do that? I don't  
19 remember. I don't recall the exact moment in  
20 time.  
21 But it became fairly apparent that the  
22 official version of events given by Kazakh  
23 government officials and by the press, fed by  
24 Kazakh government officials, it didn't make much  
25 sense that the former owner would be stealing

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1 CONFIDENTIAL -- Claudio Khamis  
2 his own bank.  
3 Q. Are you aware that there are  
4 proceedings by the government of Kazakhstan --  
5 well, primarily by BTA Bank to recover the  
6 amounts Mr. Ablyazov took from BTA Bank?  
7 MR. BLOOR: Objection to form.  
8 Q. Let me ask an easier question.  
9 Are you aware that there are proceedings  
10 here in the United States against Mr. Ablyazov?  
11 A. I'm aware that there is legal activity  
12 on behalf of the Kazakh government, or really  
13 Kazakh government-related institutions against  
14 Mr. Ablyazov.  
15 Q. To be correct, it's proceedings  
16 against affiliates of Mr. Ablyazov.  
17 Are you aware of those proceedings that the  
18 city of Almaty --  
19 A. Affiliates?  
20 Q. Are you aware of a case that the city  
21 of Almaty has brought against Mr. Khrapunov?  
22 MR. BLOOR: Objection to form.  
23 You can answer.  
24 A. I don't -- I don't recall. I know  
25 that there was illegal activity, but I would

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1 CONFIDENTIAL -- Claudio Khamis  
2 overreach myself to try to precise -- I mean,  
3 what it is.  
4 Q. You haven't read any of the materials  
5 from that case, the City of Almaty case?  
6 MR. BLOOR: Objection.  
7 Q. Have you read the complaint in that  
8 case?  
9 A. I have read a lot of information, but  
10 if my recollections of event is right, they have  
11 more to do with UK cases.  
12 Particularly interesting for me was the  
13 Lewis Report, and I think that was from a UK  
14 case.  
15 Q. You're familiar with a case BTA  
16 brought in the UK --  
17 A. As I explained previously, Mr. Walsh,  
18 my activities and the management of the assets  
19 or taking care of the assets require me enormous  
20 amount of attention. It's impossible for me to  
21 understand cases that are not related to me. I  
22 just don't have enough time to -- to study and  
23 devote significant resources to -- to go into  
24 other parties' legal activity.  
25 \* \* \* \* \*

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1 CONFIDENTIAL -- Claudio Khamis  
2 (Whereupon, Khamis Exhibit  
3 Number 13, a letter, dated 6/13/18, was  
4 marked for identification as of this  
5 date.)  
6 (Whereupon, Khamis Exhibit  
7 Number 14, an affidavit, was marked for  
8 identification as of this date.)  
9 (Whereupon, Khamis Exhibit  
10 Number 15, an affidavit, was marked for  
11 identification as of this date.)  
12 (Whereupon, Khamis Exhibit  
13 Number 16, an affidavit, was marked for  
14 identification as of this date.)  
15 Q. Mr. Khamis, I've handed you Exhibits  
16 13, 14, 15, and 16.  
17 If you could look at Exhibit 13, please?  
18 A. 13?  
19 Q. Yes, the letter from your former  
20 lawyer, Mr. Jaffe.  
21 A. Yeah.  
22 Q. This is a letter about the Kazaword  
23 database.  
24 A. Yeah, I read it.  
25 Q. And by this time, you had acquired the



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1 CONFIDENTIAL -- Claudio Khamis  
2 database from the Swiss bailiff? This is June  
3 of 2018.  
4 A. I would say so.  
5 Q. He writes at the bottom of the first  
6 paragraph:  
7 The entity plaintiffs obtained the Kazaword  
8 documents from a disinterested third party --  
9 A. Correct.  
10 Q. -- which in turn obtained them when  
11 they were publicly available on the Kazaword  
12 website.  
13 And it gives a website address, between  
14 August 2014 and December 2016.  
15 Was the disinterested third party the Swiss  
16 bailiff that we're talking about?  
17 A. I assume that my lawyer is referring,  
18 and I assume he's referring to the bailiff.  
19 Q. And Mr. Jaffe also provided these  
20 documents, which appear to be affidavits from  
21 the Swiss bailiff.  
22 Do you see those?  
23 A. Yes.  
24 Q. And are you familiar with those  
25 documents?

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1 CONFIDENTIAL -- Claudio Khamis  
2 A. I'm not familiar with those documents.  
3 I'm familiar with the name Andre Tronchet,  
4 because this is the bailiff, the bailiff's name.  
5 Q. Mr. Tronchet?  
6 A. Yes.  
7 Q. Have you met Mr. Tronchet?  
8 A. No.  
9 Q. Have you talked to him on the phone?  
10 A. No.  
11 Q. This was the Swiss -- Swiss bailiff  
12 that Mr. Jaffe spoke with?  
13 A. Correct.  
14 Q. How did you become aware that the  
15 Swiss bailiff had these documents?  
16 MR. BLOOR: Objection to form.  
17 You can answer.  
18 A. When I -- when I understood that the  
19 case portrayed by the Kazakh government, a lack  
20 of consistency, or say in other words, had any  
21 many inconsistencies.  
22 As I mentioned before, I instructed  
23 Mr. Jaffe, my lawyer, to get in contact with the  
24 other party. He contacted. I think it's the  
25 lawyer of Mr. Khrapunov -- I'm not even sure

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1 CONFIDENTIAL -- Claudio Khamis  
2 about that fact -- but what I know is that once  
3 he do, he does it, I have a conversation with  
4 Mr. Khrapunov on our interest on -- on fact  
5 finding, and the -- I don't -- I don't recall  
6 exactly at what moment I got knowledge that a  
7 bailiff existed that was in possession of and we  
8 could get it from him.  
9 Following that, my lawyer made contact with  
10 the bailiff, if I recall well, and this is  
11 how -- how I got the documents. They came in  
12 electronic form.  
13 Q. What format? Were they on a disc?  
14 A. I don't know. I haven't opened the  
15 envelope, and I had it sent to my lawyers.  
16 Q. At the Alston & Bird firm?  
17 A. I don't recall -- I recall having to  
18 send it to David Littleton in Washington, DC. I  
19 don't think that I send it thoroughly to  
20 Mr. Jaffe, but I couldn't say otherwise, I just  
21 don't remember.  
22 But for us it was important to be able to  
23 be informed about the facts of the developments  
24 at BTA Bank and its restructuring through --  
25 through all available information.

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1 CONFIDENTIAL -- Claudio Khamis  
2 Q. Does Mr. Littleton speak Russian?  
3 A. I don't speak Russian, and I can tell  
4 you I have never had a conversation with him in  
5 Russian. I don't have a clue what he speaks.  
6 Q. Do you know if the documents in the  
7 Kazaword database include Russian documents?  
8 A. I don't know. I didn't go through  
9 them.  
10 Q. Do you know if anyone representing you  
11 has looked through these documents?  
12 MR. BLOOR: Objection.  
13 A. I have Mr. Littleton in charge of it.  
14 I have received from my attorney --  
15 Now that I'm recalling that it's my  
16 attorney, I don't know if you're entitled to  
17 know what --  
18 Q. I'm not asking you for your  
19 communications with Mr. Littleton.  
20 Mr. Littleton is one of your attorneys.  
21 A. Yeah. He has a --  
22 MR. BLOOR: Let him ask a question.  
23 Q. Mr. Jaffe and your lawyers at Cozen  
24 O'Connor have identified for us certain  
25 documents relating the use the government's use

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1 CONFIDENTIAL -- Claudio Khamis  
2 of BTA plans.  
3 Do you know whether those, the information  
4 they obtained was obtained from the Kazaword  
5 database?  
6 MR. BLOOR: Objection to form.  
7 A. I don't know. We are doing a very  
8 extensive search to try to put up the relevant  
9 information together.  
10 Q. Who is we?  
11 A. In this case, it's not -- in this  
12 case, it's me and my team and my lawyers that  
13 are helping me.  
14 Q. And has the Cozen O'Connor firm been  
15 through the Kazaword database?  
16 MR. BLOOR: Objection.  
17 A. I wouldn't know.  
18 Q. Have any of your lawyers been through  
19 the Kazaword database to identify documents to  
20 be used in this case?  
21 MR. BLOOR: Objection.  
22 A. Yes.  
23 Q. Which lawyers?  
24 MR. BLOOR: Objection.  
25 Q. Mr. Littleton?

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1 CONFIDENTIAL -- Claudio Khamis  
2 MR. BLOOR: You can answer that.  
3 A. Yes, Mr. Littleton.  
4 Q. And do you know if anyone is working  
5 with Mr. Littleton to identify documents in the  
6 Kazaword database?  
7 A. I don't know --  
8 MR. BLOOR: Objection.  
9 A. -- how Mr. Littleton works with it,  
10 the same way I don't know what happens at Cozen  
11 O'Connor, how many people, lawyers, manage  
12 papers related to my case. I just get billings.  
13 Q. Do you know that the Kazaword database  
14 contains privileged communications between the  
15 government of Kazakhstan and its lawyers, its  
16 outside lawyers?  
17 MR. BLOOR: Objection.  
18 A. I don't -- I don't know.  
19 Q. Do you know that this firm, Curtis  
20 Mallet, has brought a lawsuit against the people  
21 who obtained the Kazaword database to allege  
22 that they hacked the documents -- they obtained  
23 the documents through a hacking exercise.  
24 MR. BLOOR: Objection.  
25 MR. WALSH: Let me rephrase.

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1 CONFIDENTIAL -- Claudio Khamis  
2 Q. Are you aware of a case that the  
3 Republic of Kazakhstan has brought against  
4 certain individuals regarding the Kazaword  
5 database?  
6 A. No. I don't -- I am not familiar of  
7 the history of the Kazaword database.  
8 Q. Are you aware that there are  
9 privileged communications between the government  
10 of Kazakhstan and its outside lawyers in the  
11 Kazaword database?  
12 MR. BLOOR: Objection.  
13 A. I remember that at the time I was with  
14 Alston & Bird, Brett mentioned that there was a  
15 concern on the plaintiffs' lawyers, I don't know  
16 which of the two offices, regarding certain  
17 privileged documents.  
18 MR. BLOOR: The plaintiffs or the  
19 defendants?  
20 THE WITNESS: Sorry, the defendants.  
21 I'm the plaintiff. I forgot.  
22 Q. If you turn to the letter again that  
23 Mr. Jaffe sent to us, and the second page.  
24 A. Sorry. Okay.  
25 Q. The first full paragraph begins:

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1 CONFIDENTIAL -- Claudio Khamis  
2 We are aware that some of the Kazaword  
3 documents may contain communications arguably  
4 protected by attorney-client or other applicable  
5 privileges. To address any concerns concerning  
6 privileges, the Kazaword documents are presently  
7 being reviewed by independent counsel.  
8 Who is that independent counsel?  
9 MR. BLOOR: Objection.  
10 I'm going to instruct you not to  
11 answer.  
12 I think you're aware, Jonathan,  
13 that -- and I'm basing this on what Brett  
14 told me, but that he has an independent  
15 expert that's looking at this, and our  
16 view is that the identity of that expert  
17 is privileged, so I'm going to instruct  
18 him not to answer.  
19 Q. Are you going to follow your counsel's  
20 instructions?  
21 A. Yes.  
22 MR. WALSH: We'll file that  
23 separately with the court.  
24 A. What I know --  
25 MR. BLOOR: Let him ask the next

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1 CONFIDENTIAL -- Claudio Khamis  
2 question.  
3 Q. What do you know?  
4 A. What I know is that I have been very  
5 concerned not to have any privilege or deemed  
6 privileged information. We -- it's an issue  
7 that we're taking very seriously.  
8 Q. And is it your position that the use  
9 of independent counsel is sufficient to protect  
10 the attorney-client privilege of the Republic of  
11 Kazakhstan?  
12 MR. BLOOR: Objection. He's not a  
13 lawyer. You're asking him his opinion on  
14 legal privilege?  
15 MR. WALSH: You can instruct him not  
16 to answer.  
17 MR. BLOOR: You can answer the  
18 question  
19 THE WITNESS: Can you repeat the  
20 question?  
21 Q. The plaintiffs in this case,  
22 Atlantica, Baltica, and Blu Funds, have taken  
23 the position that the privilege review can be  
24 done by this independent counsel.  
25 Is it your position that, on behalf of

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1 CONFIDENTIAL -- Claudio Khamis  
2 three plaintiff entities, that that process,  
3 using an independent counsel, is sufficient to  
4 protect the privilege of the Republic of  
5 Kazakhstan?  
6 MR. BLOOR: Objection.  
7 If you have an opinion of how US law  
8 applies, you can tell him  
9 A. I -- I'm not a lawyer. I -- I rely on  
10 my lawyer's opinion on that.  
11 Q. I want to go back to the, your  
12 investments in TuranAlem.  
13 MR. WALSH: This will be Exhibit 17.  
14 (Whereupon, Khamis Exhibit  
15 Number 17, a UBS statement, was marked  
16 for identification as of this date.)  
17 Q. Mr. Khamis, Exhibit 17 is a trade  
18 confirmation from UBS for your Atlantica  
19 account; correct?  
20 A. Correct.  
21 Q. And this reflects the purchase of five  
22 million TuranAlem -- five million face amount of  
23 TuranAlem Finance bonds in September of 2009.  
24 A. Correct.  
25 Q. Do you recall why you made this

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1 CONFIDENTIAL -- Claudio Khamis  
2 investment?  
3 A. Exactly the same, previous as before.  
4 Q. Was there any document that you  
5 reviewed in connection with this investment?  
6 A. Nothing different from what I said  
7 before.  
8 Q. You can put that aside.  
9 This is Exhibit 13 from Mr. Kiblsky's  
10 deposition. This is an email from Mr. Kiblsky,  
11 dated September 22nd, 2009, after you had  
12 purchased the TuranAlem bonds.  
13 A. After I purchased this one?  
14 Q. Yes. The trade confirm shows that the  
15 purchase was September 11th, and this is  
16 September 22nd.  
17 During this time period, was Mr. Kiblsky  
18 sending you news articles about BTA in September  
19 2009?  
20 A. He would send me whatever he thinks  
21 would caught my attention, would be of my  
22 interest.  
23 Q. Were you independently doing research  
24 on BTA in this time period?  
25 A. The purposes of my investment were, as

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1 CONFIDENTIAL -- Claudio Khamis  
2 I outlined, it was a micro view of the country,  
3 an assessment that the biggest bank and its  
4 portfolio of around 20-something billion  
5 couldn't vanish to the extent that it would make  
6 a valuation of \$0.19 on the bonds correct. We  
7 assumed that there was a discrepancy between the  
8 price of the bond and the intrinsic value of the  
9 security.  
10 Q. So you're looking now at Exhibit 17.  
11 When you referred to \$0.19, that's the  
12 price that you paid for the bonds?  
13 A. Yeah. They were all trading at the  
14 time around this range, a little below 20, a  
15 little above 20.  
16 Q. What did you think the intrinsic value  
17 of this bond was at that time?  
18 A. The assessment was that there was a  
19 deviation that was significant between the price  
20 of the bond and the market, where they imply  
21 destruction of the loan portfolio to support a  
22 price like this.  
23 Q. Are you able to quantify what the  
24 intrinsic value was?  
25 A. The owners of the bank have problems

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1 CONFIDENTIAL -- Claudio Khamis  
2 quantifying the exact value of their loan  
3 portfolio.  
4 Q. But it was your belief that it was  
5 more than \$0.19?  
6 A. My assessment, more than my belief,  
7 was that it was more than -- more than \$0.19.  
8 I buy securities to make money, not to lose  
9 money.  
10 Q. Did you do any written research or  
11 written analysis yourself of --  
12 A. Written?  
13 Q. Right. Did you write any notes about  
14 BTA?  
15 A. No. I don't write notes about my  
16 investments. I don't recall having written any  
17 notes.  
18 Q. So in this time period --  
19 A. Maybe for other ones.  
20 Q. So your general practice in this time  
21 period was not to take notes on any of your  
22 investments?  
23 A. My practice at the time was to review  
24 all the information that I deemed of relevance  
25 and analyze it.

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1 CONFIDENTIAL -- Claudio Khamis  
2 Q. And what would that include?  
3 MR. BLOOR: Objection.  
4 You can answer.  
5 A. It includes reading it and trying to  
6 understand it.  
7 Q. We talked about some of the analyst  
8 reports.  
9 Those were the materials that you would  
10 review in this time period, the analyst reports  
11 about your investments?  
12 MR. BLOOR: Objection.  
13 Q. I'm -- let me rephrase the question  
14 I'm not trying to -- I'm just trying to  
15 understand what your practice was as far as  
16 following your investments and making investment  
17 decisions. So let me break it up.  
18 By this time you're already -- we're  
19 looking at Exhibits 13 from Mr. Kiblsky's  
20 deposition  
21 You already invested in BTA Bank's  
22 predecessor, TuranAlem?  
23 A. Yes.  
24 Q. What was your practice in this time  
25 period, as far as following news about BTA?

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1 CONFIDENTIAL -- Claudio Khamis  
2 A. I don't recall what my practice at  
3 this time was.  
4 At this specific instrument, this specific  
5 moment, there was not much news during the  
6 restructuring process that were easy to make a  
7 sense. The big pieces of information were the  
8 big amounts of provisioning and the big claims  
9 of losses in the loan portfolio.  
10 And we had a very hard time understanding  
11 how the vast majority of a \$23 billion or  
12 \$21 billion portfolio could vanish.  
13 Q. What did you think happened to it?  
14 A. I don't think I make assessments about  
15 different theories to explain about the -- the  
16 amount for a bank that is not involved in  
17 derivatives or complex leveraged financial  
18 transactions. It's very hard to see the  
19 duration and common or normal practice of -- of  
20 credit or lending.  
21 Q. This is Exhibit 14, Mr. Khamis, from  
22 Mr. Kiblsky's deposition. This is an email  
23 from Mr. Kiblsky to you, dated September 22nd,  
24 2009. He's attached a number of documents,  
25 which you can see on the pages after the first

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1 CONFIDENTIAL -- Claudio Khamis  
2 cover email  
3 Do you recall receiving this email?  
4 A. I think I recall -- I mean, the  
5 questions behind the high-low loss provisions.  
6 Q. This, I'll represent, this is not  
7 Mr. Kiblsky writing. He's cut and pasted from  
8 another report. The first sentence reads  
9 BTA has released MOU signed with CC.  
10 Do you know what the CC is?  
11 A. No.  
12 Q. Is it the creditors' committee?  
13 A. I don't recall.  
14 Q. You understood that, as part of the  
15 restructuring, that the bank was negotiating  
16 with certain creditors; correct?  
17 A. Yeah.  
18 Q. And the MOU that's attached here were  
19 the terms of the restructuring that would be  
20 developed and formalized; correct?  
21 MR. BLOOR: Objection.  
22 Q. What did you understand the MOU to be?  
23 MR. BLOOR: Objection.  
24 A. The MOU is -- is -- it's a sort of  
25 memorandum of understanding of some process

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1 CONFIDENTIAL -- Claudio Khamis  
2 that -- at that point in time, if my memory is  
3 right, was not finished, and it was about some  
4 sort of understanding between the people  
5 restructuring the bank or in charge of the bank  
6 and the creditors.  
7 Q. Did you read the attachments when you  
8 received this email?  
9 A. Probably I flipped through them and  
10 then read what, at the moment could have seemed  
11 relevant.  
12 Q. Is it fair to say at this time it was  
13 not clear what the terms of the final  
14 restructuring would look like?  
15 A. I don't think that the terms of the  
16 final restructuring would be clear at this  
17 moment, because the bond was trading at 19 and  
18 the exchange was like at \$0.50, with all the  
19 securities plus the cash included, so markets  
20 usually win when they know the information would  
21 be public. The price would be closing according  
22 to the exchange, so I don't think that this  
23 was -- that this was the case.  
24 Q. Let me break that up.  
25 What was the exchange that you just

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1 CONFIDENTIAL -- Claudio Khamis  
2 referred to?  
3 A. At the end of the restructuring,  
4 creditors received new securities from the old  
5 securities with the haircut. There was a  
6 significant haircut.  
7 Q. The exchange would be the old notes  
8 being exchanged for the new notes?  
9 A. Old notes for -- for more than one  
10 security.  
11 Q. What other securities were distributed  
12 in the exchange?  
13 A. I think there was a senior debt and  
14 senior new debt to say subordinated, some cash  
15 and recovery units.  
16 Q. What is a recovery unit?  
17 A. Where, after the restructuring, now?  
18 Q. Yes.  
19 A. After the terms of the first  
20 restructuring were released? What was the  
21 timeline here?  
22 Q. So you said that there was an  
23 exchange. The exchange occurred --  
24 A. At the end the restructuring.  
25 Q. Right, and the end the restructuring,

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1 CONFIDENTIAL -- Claudio Khamis  
2 as you understand it, was in 2010?  
3 A. Correct. This was in 2009.  
4 Q. Right. So in 2009 --  
5 A. Because this was actually like --  
6 Q. It was early in the process.  
7 2009 was early in the structuring process?  
8 I need an answer. I forgot to tell you  
9 that we need verbal answers for the court  
10 reporter.  
11 A. Yes.  
12 Q. At the end of that process in 2010,  
13 there was an exchange. You referenced that.  
14 A. Yes.  
15 Q. In that exchange, you -- creditors  
16 received what's called recovery units?  
17 A. Correct.  
18 Q. What was a recovery unit?  
19 A. Well, at the time we had to -- to look  
20 for -- we didn't understand at the very  
21 beginning when we just were told part of this  
22 security was recovery units, so --  
23 I was looking deeply at the information  
24 memorandum and to try to understand what the  
25 recovery units were. So it was a big part of

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1 CONFIDENTIAL -- Claudio Khamis  
2 the loan portfolio that was segregated, put in a  
3 trust deed to be split after certain limits,  
4 half and half between recovery unit holders and  
5 the bank.  
6 Q. You referenced the information  
7 memorandum.  
8 What was that?  
9 A. Excuse me?  
10 Q. What was the information memorandum?  
11 A. That was the memorandum where it was  
12 prepared and presented to the creditors and the  
13 final terms of the restructuring.  
14 Q. When did you review that document?  
15 A. Probably right away when it was made  
16 available.  
17 Q. And did you keep a copy of the  
18 information memorandum that you reviewed?  
19 A. No. It was in the -- it was in the  
20 public on the website.  
21 Q. So you went on the BTA website to look  
22 at it?  
23 A. Yeah.  
24 Q. And what do you recall about seeing on  
25 the website?



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1 CONFIDENTIAL -- Claudio Khamis  
2 A. I flipped through the page. At the  
3 same time, I don't recall exactly when in the  
4 timeline, I would -- I would receive papers, of  
5 specific pieces of information, memorandum. But  
6 they seemed to us extremely interesting.  
7 Q. Where did you receive these piece of  
8 papers?  
9 A. Where?  
10 Q. Where.  
11 A. In Santiago.  
12 Q. In Santiago.  
13 Who delivered them?  
14 A. I think it would usually be brought by  
15 Patrick, by hand. Patrick, at the time, would  
16 live, like, a week in the US, a week in  
17 Santiago, and at this time we were in very close  
18 contact, having lunch and meeting pretty often.  
19 I don't remember what the frequency was, but at  
20 the time, I think it was fairly -- fairly high.  
21 Q. He gave you pieces of information of  
22 that memorandum?  
23 A. He -- he -- we discussed -- he handed  
24 me over excerpt -- how you say? --  
25 Q. Excerpt.

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1 CONFIDENTIAL -- Claudio Khamis  
2 A. Excerpt of the pieces that were  
3 relevant.  
4 Q. What was the excerpt?  
5 A. I don't recall exactly, but I recall  
6 at least two pieces that were -- that were very  
7 relevant for us.  
8 One was that -- that the bank wouldn't pay  
9 any distributions or dividends to itself until  
10 the bondholders would be repaid or seven years.  
11 There were, I mean, some very specific  
12 commitments that were supportive of our  
13 impression and the seriousness of the  
14 undertaking by the Kazakh authorities at the  
15 time.  
16 And we were thinking that it was a very  
17 good restructuring and very well done and this  
18 commitment by -- by the ownership of the bank,  
19 not to allow payments. Any time you pay a  
20 dividend, you don't capitalize it, and what you  
21 want for a stable bank is as much capital as  
22 possible.  
23 So spending for the wellbeing of the bank,  
24 for the wellbeing of the financial system, but  
25 also for the creditors and the depositors.

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1 CONFIDENTIAL -- Claudio Khamis  
2 Q. What other excerpts did you receive  
3 from Mr. Kiblsky?  
4 A. There was papers handed to me from the  
5 information memorandum. I couldn't point out  
6 that everything was Mr. Kiblsky about the  
7 recovery units, and the other stuff, I don't  
8 have precise recollections.  
9 But the information memorandum was a big  
10 piece of information and the -- and some parts  
11 were thoroughly analyzed, and some parts we paid  
12 less attention due to the extension of the  
13 document.  
14 Q. What parts were thoroughly analyzed?  
15 A. I don't remember.  
16 Q. When you say we, are you referring to  
17 yourself and your ego or now Mr. Kiblsky?  
18 A. No, no, no. It's mostly me.  
19 Listen, I reviewed this. I read it. I try  
20 to make sense of it, and if I have a question or  
21 a comment, I throw this comment to see what, if  
22 I'm making sense or if somebody can point out  
23 that I'm missing something.  
24 Q. And how do you throw a comment to  
25 someone? Are you talking now about UBS? Were

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1 CONFIDENTIAL -- Claudio Khamis  
2 you running ideas by Mr. Kiblsky?  
3 A. No, I would -- I would argue, for  
4 instance, how could it not be a financial crisis  
5 when there is so much loans given to people that  
6 actually don't have an income or a source of or  
7 a stream of income to pay for the asset, and the  
8 only way to get that is intrinsic expectation  
9 that the value is going to keep on rising.  
10 So I would say something like this, and I  
11 would expect people to say no, listen, you're  
12 missing this or you're missing that, and if  
13 nobody comes with something to say, well, at  
14 least a smart person, like you, for instance,  
15 would have nothing to add to it or to  
16 contradict, I would say okay, at least nobody's  
17 being able to -- to question.  
18 Q. Do you recall any of the people that  
19 you discussed the information memorandum with?  
20 A. Not really. We -- I -- so we have it  
21 clear, I was pretty satisfied with the turn out  
22 of -- of the restructuring proved our point,  
23 right, that the market overestimated the loan  
24 portfolio, the structure.  
25 We knew that at that time that it, since it

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1 CONFIDENTIAL -- Claudio Khamis  
2 was the biggest bank in Kazakhstan, and  
3 Kazakhstan was a fairly relevant country in the  
4 region, we knew or heard, or I heard that this  
5 was being done with a lot of help of financial  
6 advisors and auditors, and so we at the time, it  
7 seemed very reasonable.  
8 Q. I'm going to show you what's been  
9 marked as Exhibit 17 at Mr. Kiblsky's  
10 deposition. Mr. Khamis, there is an email from  
11 Mr. Kiblsky to you from December of 2009  
12 attaching a report from Renaissance Capital.  
13 Are you familiar with Renaissance Capital?  
14 A. I know who they are.  
15 Q. Have you ever talked to anyone at  
16 Renaissance Capital about BTA?  
17 A. Not that I recall.  
18 Q. Do you recall receiving this email  
19 from Mr. Kiblsky in December of 2009?  
20 A. Yeah, I recall.  
21 Q. Do you know, at this time, what the  
22 proposal was for the notes that you held, what  
23 the proposal for the exchange would be for the  
24 TuranAlem notes that you held?  
25 A. I don't remember what I thought at the

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1 CONFIDENTIAL -- Claudio Khamis  
2 time I received this. This is in December 2009,  
3 way before the terms of the restructuring were  
4 released.  
5 And usually, during restructuring, there's  
6 is a lot of noise and conflicting information.  
7 It's a -- it's a process that usually requires a  
8 lot of effort and a lot of manpower to review  
9 the whole asset base, so I don't -- I don't  
10 remember exactly what was said here.  
11 I don't recall even if the theory, the  
12 terms of the exchange, but I don't recall having  
13 known about the real exchange until somebody  
14 called me from UBS to first turn me over the  
15 phone.  
16 Q. When was that?  
17 A. I don't know. I don't recall.  
18 (Whereupon, Khamis Exhibit  
19 Number 18, a UBS statement, was marked  
20 for identification as of this date.)  
21 MR. BLOOR: Is this 18?  
22 Q. In April of 2010, Mr. Khamis, you  
23 purchased more TuranAlem bonds; correct?  
24 A. In 2010?  
25 Q. Yes.

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1 CONFIDENTIAL -- Claudio Khamis  
2 A. Yes.  
3 Q. Why did you purchase more TuranAlem  
4 notes?  
5 A. I don't -- I don't recall exactly what  
6 sort of information or mental process that I was  
7 doing at the time.  
8 From the price, it was significantly higher  
9 than the price I had bought previously, so  
10 probably.  
11 Q. It's up to \$0.48 now; right?  
12 A. Correct.  
13 So probably there was some information or  
14 expectation. I cannot even rule out this piece  
15 here at the time, because this is December 2009  
16 and this is April 2010.  
17 I couldn't -- I couldn't tell you. I mean,  
18 but the assessment, it was different, clearly,  
19 from the first purchases to the second.  
20 Q. How different?  
21 A. Probably I -- my assessment confirmed  
22 that the -- that the -- that the destruction of  
23 the value of the loan portfolio was not that  
24 heavy, so if you read the information itself,  
25 the previous exhibit, they say surprising upset

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1 CONFIDENTIAL -- Claudio Khamis  
2 for bondholders, which means that surprising,  
3 less destruction in value means that eventually  
4 there's going to be a relationship between the  
5 price of the bond and the secondary market and  
6 the assessment that the market is making the  
7 price and the value of the intrinsics.  
8 Q. Do you see in that exhibit that you  
9 you're looking at, that's Kiblsky 17, there's a  
10 reference to senior package number one?  
11 A. Where are you?  
12 Q. Right on the bottom of that analyst  
13 report from Renaissance Capital.  
14 A. In this part?  
15 Q. Yes, the bottom.  
16 Did you know at this time if you were in  
17 the senior package one recovery?  
18 MR. BLOOR: I'm sorry, you're  
19 referring to the third bullet?  
20 MR. WALSH: No. At the very bottom  
21 there's a chart with cash, new senior  
22 debt, new subordinated debt, equity.  
23 A. No. I don't recall what I knew at the  
24 time.  
25 At the time, when this happened, this was

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1 CONFIDENTIAL -- Claudio Khamis  
2 not my most relevant investment.  
3 Q. What was?  
4 A. I don't remember.  
5 Q. Do you recall how many investments you  
6 had in this time period?  
7 A. No, no.  
8 But I probably Gazprom was bigger than  
9 this.  
10 Q. The number of investments, is it  
11 somewhere between 10 and 20 or 100 and 200?  
12 A. No, no, no. It's not that big.  
13 Q. What number would you put on this time  
14 period? This is April of 2010.  
15 A. Globally or for the entities? Because  
16 I look for the entities, but I also look for  
17 some other stuff.  
18 Q. Understood. Let's start with  
19 Atlantica, Baltica, and Blue.  
20 A. I don't have a clear recollection of  
21 what I look for at the time.  
22 Q. And globally, what other investments  
23 did you have that you were monitoring in April  
24 of 2010?  
25 A. I was monitoring everything,

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1 CONFIDENTIAL -- Claudio Khamis  
2 investments that I had in the portfolio at the  
3 time.  
4 Q. Your daughter was born in 2009? Were  
5 you in Santiago in this time period, April of  
6 2010?  
7 A. I don't know. I know that after she  
8 was born I was in Santiago with only one place  
9 that I traveled.  
10 Q. And how often were you watching your  
11 daughter in this time period?  
12 A. No. During the period, I was with her  
13 every day.  
14 Q. And were you there for her first  
15 birthday?  
16 A. Sure. I never missed a birthday so  
17 far.  
18 Q. And in that time period, were you with  
19 her every day, or was it once a month?  
20 A. No, no, no. Every day.  
21 Q. And is it fair to say that your review  
22 of your investments was less frequent in that  
23 time period than it would be, say, for today?  
24 A. No. I wouldn't say so, Jonathan.  
25 The review of my investments takes time,

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1 CONFIDENTIAL -- Claudio Khamis  
2 but it's not 12 hours a day because I'm not  
3 trading them  
4 I would say the assessment made is that you  
5 want to find the differences between the price  
6 and the intrinsic value in holding. There  
7 are -- there are -- the real motivation is that,  
8 find them and hold them, not trading them, not  
9 look every day at the screen and make an  
10 assessment.  
11 When there are periods of high volatility  
12 or high global stress, if you look every day at  
13 the screen, obviously, to know where the world  
14 is heading, but it doesn't mean that if prices  
15 fall 50 percent and you have a beautiful house  
16 and or apartment in New York that you're going  
17 to throw it out of the window if you don't have  
18 to.  
19 Q. You mentioned a screen.  
20 Did you follow your investments on your  
21 computer?  
22 A. At the time, it seems that I was  
23 calling a lot to find out prices. A lot of -- a  
24 lot of those investments, you wouldn't be able  
25 to access a price. Many of the securities were

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1 CONFIDENTIAL -- Claudio Khamis  
2 traded over-the-counter, and at the time, I  
3 don't think that it was kind of a Bloomberg  
4 application, a place where you could see Apple  
5 every day unless you had a Bloomberg terminal.  
6 Q. Did you have access to a Bloomberg  
7 terminal in April of 2010?  
8 A. No. I never have access to even  
9 today.  
10 Q. No, never?  
11 A. No.  
12 Q. And did you call UBS to get a price  
13 for the securities that you held in April of  
14 201? Is that the main way to determine the  
15 price?  
16 A. Most likely.  
17 Q. And the TuranAlem bonds that you held,  
18 was that true as well, you had to call UBS to  
19 get the price?  
20 A. Yes, most likely. I don't recall any  
21 other source.  
22 If I had a friend sitting in a bank with  
23 access to something, I would ask him to find me  
24 something if somebody wouldn't pick up the phone  
25 for a whole afternoon and I felt that I had to

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1 CONFIDENTIAL -- Claudio Khamis  
2 know, but it's -- it's something that doesn't  
3 follow a pattern.  
4 Q. What about going on the BTA website?  
5 How often were you going on the BTA website in  
6 this time period, April 2010?  
7 A. I don't recall. I was probably  
8 Googling, and I don't recall how often. Most of  
9 the presentations, I wouldn't -- I'd either  
10 receive a call or get to know through some  
11 people involved in the business that there was  
12 something out there, worth looking, or they  
13 would bring it to me, to my hand and hand it as  
14 a paper, and hey, by the way, we got this for  
15 you and have a look while having coffee.  
16 Q. Do you recall going on the BTA website  
17 and looking at the information memorandum on  
18 your screen in 2010?  
19 A. Yes.  
20 Q. And did you print any piece of it at  
21 that time?  
22 A. No. I don't think I would have  
23 managed myself with computers at that time to be  
24 able to select what to print and what not to  
25 print. I've never been good with computers.

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1 CONFIDENTIAL -- Claudio Khamis  
2 Q. Did you flip through the pages of the  
3 information memorandum on the screen?  
4 A. I don't remember how -- how I  
5 interacted with the -- with the information.  
6 I know -- I have recollections of pieces.  
7 I usually focus on something and I get my  
8 interest into that, and then while I'm doing  
9 that myself, I'm calling, probably, either  
10 whoever have handed to expedite it for me.  
11 Q. The pieces of paper that you would get  
12 sitting in the coffee shop and the excerpts, for  
13 example, that you got from the information  
14 memorandum, what did you do with them, the  
15 hardcopies?  
16 A. The hardcopies would be in what was my  
17 office at that time and probably, until today,  
18 my car. They would lie in the backseat or in  
19 the next seat if nobody would drive with me for  
20 a while, they would be right next to me. If  
21 not, they would be in the back. After a while I  
22 would throw them away.  
23 Q. I'll represent to you that Atlantica,  
24 Blu Funds, Baltica, have not produced any  
25 excerpts of the information memorandum.

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1 CONFIDENTIAL -- Claudio Khamis  
2 A. Most likely at the time we engage into  
3 legal activities they were converted into earth  
4 or recycled already by nature and --  
5 Q. You had thrown them out?  
6 A. I keep -- listen, it's -- I may keep  
7 something, but without any specific rule, it's  
8 got to be very important for me to keep it.  
9 But if I read it and I think I'm not going  
10 to use it, most likely I'm going to throw it  
11 away, and especially financial information,  
12 because financial information has a great degree  
13 of obsolescence.  
14 There was nothing valuable in me knowing  
15 what happened or how valuable Amazon was last  
16 year.  
17 Q. Was that true --  
18 Was that true with respect to BTA?  
19 A. In what sense?  
20 Q. That financial information that you  
21 reviewed became obsolete?  
22 A. No. I think it became very relevant  
23 in hindsight.  
24 Q. If you go back to Exhibit 18. It's  
25 the trade confirm for April of 2010.

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1 CONFIDENTIAL -- Claudio Khamis  
2 A. Exhibit what --  
3 Q. 18. That one.  
4 A. Yeah. This is the one that you just  
5 showed me, no?  
6 Q. Do you see the reference to reg S in  
7 the middle of the page?  
8 A. Yes.  
9 Q. Do you know what regulation S is?  
10 A. No.  
11 Q. Do you have any knowledge how UBS  
12 filled the orders that you made for TuranAlem?  
13 A. No.  
14 Q. Do you know how widely traded  
15 TuranAlem was in this time period?  
16 A. No.  
17 MR. WALSH: Why don't we take a  
18 break, and I'll continue with my  
19 questions.  
20 THE VIDEOGRAPHER: The time is 2:14.  
21 This ends media number 2.  
22 (Whereupon, a brief recess was  
23 taken.)  
24 \* \* \* \* \*  
25 \* \* \* \* \*

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1 CONFIDENTIAL -- Claudio Khamis  
2 (Whereupon, Khamis Exhibit  
3 Number 19, a UBS Statement, was marked  
4 for identification as of this date.)  
5 (Whereupon, Khamis Exhibit  
6 Number 20, a UBS Statement, was marked  
7 for identification as of this date.)  
8 (Whereupon, Khamis Exhibit  
9 Number 21, a UBS Statement, was marked  
10 for identification as of this date.)  
11 (Whereupon, Khamis Exhibit  
12 Number 22, a UBS Statement, was marked  
13 for identification as of this date.)  
14 THE VIDEOGRAPHER: The time is  
15 2:33 p.m. This begins media number 3.  
16 MR. WALSH: First, Martin wants to  
17 make a statement.  
18 MR. BLOOR: Just as a matter of  
19 housekeeping, we just would ask to mark  
20 the transcript of this deposition  
21 confidential under the relevant  
22 protective order in this matter.  
23 Q. Mr. Khamis, I've handed you excerpts  
24 of the account statements from UBS.  
25 Before you is Exhibit 19, which is an

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1 CONFIDENTIAL -- Claudio Khamis  
2 excerpt from the September 2010 account  
3 statements;  
4 Exhibit 20 is an excerpt from the  
5 April 2010 account statement;  
6 And Exhibit 21 is an excerpt, also from the  
7 September 2010 account statement for Baltica,  
8 and the other two are Atlantica;  
9 And the Exhibit 22 is an excerpt from the  
10 September 2010 Baltica statement.  
11 We were talking before about the exchange  
12 that occurred in the 2010 restructuring.  
13 You owned old notes of TuranAlem; correct?  
14 A. Correct.  
15 Q. And you exchanged them for new  
16 securities, correct?  
17 A. Correct.  
18 Q. And if you look at Exhibit 20 --  
19 Do you have that in front of you?  
20 You'll see on that first page, stamped  
21 2770, that there are a number of BTA securities  
22 that you received in the exchange; correct?  
23 A. Listen, in all honesty, I always get  
24 mixed up with those statements.  
25 I mean, where are you looking at?

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1 CONFIDENTIAL -- Claudio Khamis  
2 Q. So on September 3rd, there are a  
3 number of securities for BTA listed.  
4 Do you see that?  
5 A. No.  
6 Can you highlight them for me?  
7 MR. VIGNA: Mr. Walsh, you may be  
8 referring to Exhibit 19.  
9 Q. I'm sorry, Exhibit 19.  
10 Do you see at the bottom of the page --  
11 A. Exchange.  
12 Q. Correct, and you see you received, on  
13 September 3rd, five different -- well, four  
14 different types of securities as reflected on  
15 this?  
16 A. Yes.  
17 Q. And that was GDRs for BTA Bank?  
18 A. Yeah.  
19 Q. There were notes due in 2020 from BTA  
20 Bank?  
21 A. Okay.  
22 Q. Is that the, a reference to the  
23 recovery units?  
24 A. I couldn't tell you what.  
25 Q. Okay. And then you see the notes that

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1 CONFIDENTIAL -- Claudio Khamis  
2 are referred to in this case, the notes due in  
3 2025 at 7.2 percent --  
4 A. LKD linked to equity note? Yeah.  
5 That's probably the recovery --  
6 The third one in the line?  
7 Q. Right, the third one is the notes  
8 issued in this case; right?  
9 A. The recovery note?  
10 Q. No. The recovery notes you just  
11 referred to, and then the third one, the  
12 7.2 percent notes --  
13 Do you see that on the third line?  
14 MR. BLOOR: It's there --  
15 A. Yeah.  
16 Q. The fourth line down  
17 Does that refresh your recollection that  
18 you received notes due in 2025 at 7.2 percent?  
19 A. Yeah.  
20 Q. And below that there's another note  
21 that pays 10.75 percent?  
22 A. Correct.  
23 Q. And that was the senior note? Do you  
24 recall what that was?  
25 A. No. I don't.



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1 CONFIDENTIAL -- Claudio Khamis  
2 Q. Do you recall receiving senior notes  
3 in the restructuring?  
4 A. Yeah.  
5 Q. Did you also receive cash in the  
6 exchange?  
7 A. To my recollection, yes, but they  
8 don't identify it here in the statement.  
9 Is it here?  
10 Q. No. It's not on this excerpt.  
11 If you turn the page --  
12 A. Same exhibit, 19?  
13 Q. Yeah. You'll see that there are other  
14 notes you received -- other securities, rather,  
15 that you received in the exchange, including,  
16 again, those notes paying at 10.75 percent.  
17 That's the third line down.  
18 A. Okay.  
19 Q. Face amount or quantity was  
20 3.3 million.  
21 Do you recall that?  
22 A. Yeah.  
23 Q. And do you recall that you sold those  
24 notes a little bit --  
25 A. Those are the senior notes.

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1 CONFIDENTIAL -- Claudio Khamis  
2 Q. The senior notes, right  
3 Do you recall that you sold those later in  
4 the year?  
5 A. Yeah.  
6 Q. And do you recall that you made a  
7 profit on those notes?  
8 A. I don't recall particular profits. I  
9 recall that the profit on the global exchange.  
10 Q. Do you recall what your profit was?  
11 A. No.  
12 I remember that we bought the first  
13 securities that we reviewed a while ago or a  
14 couple hours ago, around the 20 percent level,  
15 and that the valuation of the total package that  
16 we received was around \$0.50 or \$0.55, but I may  
17 be wrong. I don't have a clear recollection of  
18 exactly what is the addition.  
19 Q. You kept the 7.25 -- I'm sorry --  
20 A. Can I ask you a favor, Mr. Walsh?  
21 Q. -- 7.2 percent --  
22 A. Can you refer for them to, as senior  
23 or subordinated, because --  
24 Q. That would be better.  
25 A. -- for me it's going to be easier, and

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1 CONFIDENTIAL -- Claudio Khamis  
2 I think maybe for you, too, because, I mean --  
3 Q. The UBS statement don't refer to them  
4 as that, but you're familiar with those terms?  
5 A. Senior and subordinated?  
6 Q. Yes.  
7 A. Yes.  
8 Q. So in the 2010 restructuring, you  
9 received both senior notes and subordinated  
10 notes?  
11 A. Correct.  
12 Q. You also received recovery notes?  
13 A. Correct.  
14 Q. And cash?  
15 A. Correct.  
16 Q. And any other securities that you  
17 recall --  
18 A. It seems here that it says BTA Bank  
19 GTR for \$7,000.  
20 Q. And do you recall that you sold the  
21 senior notes later in 2010?  
22 A. Correct.  
23 Q. And that you made a profit on those  
24 notes?  
25 A. I don't remember what was the -- the

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1 CONFIDENTIAL -- Claudio Khamis  
2 profit or the loss.  
3 I remember the reason for selling it.  
4 Q. What was the reason?  
5 A. The reason was that once the  
6 restructuring was concluded and the exchange  
7 terms were known and we got the results of our  
8 participation that the exchange, that the bank  
9 was very well capitalized. But some figure -- I  
10 don't recall the figures, but it was probably  
11 1.9 billion -- it was a significant number, in  
12 any case, for what we assess at the moment.  
13 And the bank had -- was the biggest bank in  
14 Kazakhstan just restructured, a huge amount of  
15 provisions has been done on the bank. Topnotch  
16 western advisors were involved, investment  
17 banks, auditors, so we thought that -- and it  
18 was still like Sberbank, under government  
19 control, and we thought at the moment that it  
20 was a very well carried process, in which there  
21 was also the recovery note structure, in which a  
22 huge amount of loans were put under a trust  
23 deed. They had already been segregated from the  
24 bank.  
25 So we expected also significant recoveries

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1 CONFIDENTIAL -- Claudio Khamis  
2 from what we saw in the information memorandum  
3 written about the terms and was involved in all  
4 the proceedings to recover those bad loans or  
5 getting back those bad loans.  
6 So we assessed that the bank had good  
7 capital, we would be receiving half of the  
8 recoveries, and it was state owned, so it was,  
9 for us, a sovereign institution, and there were  
10 other market participants that at the time  
11 supported our view and that all came up to the  
12 same conclusions.  
13 So the -- the judgment at the time was  
14 that -- that, given the strong commitment of --  
15 of the Kazakh authorities in terms of the  
16 support they said they gave the bank and the  
17 restructuring process was successful, that they  
18 wouldn't pay themselves any dividends, as  
19 portrayed in the information memorandum, that  
20 they put a lot of assets under a trust deed by a  
21 western institution, in this case, Bank of New  
22 York, and everything looked very, very Kosher,  
23 to say the least.  
24 So as the bank was, yes, cleaned up, well  
25 capitalized. For us it made more sense to

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1 CONFIDENTIAL -- Claudio Khamis  
2 buy -- to sell the senior and buy the  
3 subordinated. We didn't see any increase of  
4 risk for the medium term, given what an amazing  
5 job just had been done and how well capitalized  
6 the bank was, and everybody seemed very happy at  
7 the time and deemed it as a successful  
8 restructuring, so the reason for the -- this  
9 sale and the subsequent purchase was that.  
10 Q. When you refer to we, who are you  
11 referring to there?  
12 A. Again, I told you, English is not  
13 my -- my main language --  
14 Q. No. I understand, Mr. Khamis.  
15 A. I refer to myself.  
16 Q. There was a reference in your  
17 testimony about market participants.  
18 How did you understand the market  
19 participants' reaction?  
20 A. I'm -- I'm referring specifically  
21 about -- about a UBS report that came shortly  
22 after, and they call it quasi-sovereign, and it  
23 was exactly the same thing what we were  
24 thinking, what I was thinking -- to correct for  
25 the record -- and so it's a -- at this moment in

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1 CONFIDENTIAL -- Claudio Khamis  
2 time, everything seemed nothing to worry about.  
3 And one of the reasons for that, and this I  
4 would like to point out, is because a  
5 restructuring, in which you take provisions  
6 or -- or assess that the loan portfolio is  
7 decreased or -- how do you say? -- I'm losing my  
8 English -- when you assess that the bad quality  
9 involved in the loan portfolio pre-structuring  
10 is 10 percent or 15 percent is already a big  
11 number, but in this case, the number was huge.  
12 And the amount of haircuts for liability  
13 holders or bondholders, liability holders,  
14 because it was the liabilities from  
15 11-point-something billion to four billion, it  
16 was already just this, a third of the balance  
17 sheet. On top of that, the bank received a  
18 capital infusion, if my memory is right,  
19 1.4 billion at the moment they take it from  
20 Ablyazov, so it was tens of billions poured into  
21 the bank. What I said, it was a loan portfolio  
22 that it was hard to explain, even at that moment  
23 how bad could have gone?  
24 So -- so the assessment at the moment was  
25 that the intervention, the depth of the

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1 CONFIDENTIAL -- Claudio Khamis  
2 restructuring was or the significance of the  
3 restructuring or the undertaking was so massive  
4 that there was very little space for something  
5 to be incorrect.  
6 And on top of that, I don't remember what  
7 time -- I got the first information, correcting  
8 myself from we -- maybe I'll get it by the end  
9 of the day -- hundreds of millions were spent  
10 and -- and advisory and collection efforts and  
11 so -- so at \$700 an hour, which is a very high  
12 average if you're not dealing with law firms, it  
13 accounts for half a million hours, 500,000 hours  
14 of work.  
15 Q. How much of what you've just discussed  
16 were you aware of in 2010 as opposed to what  
17 you've learned since 2010?  
18 A. In 2010, the most of what I said  
19 referred to 2010.  
20 Q. What was the source of that  
21 information?  
22 A. The information memorandum.  
23 Q. And you referenced a UBS report.  
24 Do you recall when that UBS report was  
25 issued?

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1 CONFIDENTIAL -- Claudio Khamis  
2 A. The UBS report came after the -- it  
3 came a few days after or two days after or that.  
4 But the information memorandum was  
5 released, if my memory is not overly wrong,  
6 before the exchange.  
7 But I don't have precision in my  
8 recollection, and there's --  
9 MR. BLOOR: Just let him have his  
10 next question.  
11 Q. I'm looking for the report,  
12 Mr. Khamis.  
13 A. Which report?  
14 Q. The UBS report  
15 (Whereupon, Khamis Exhibit  
16 Number 23, email, dated 11/13/12, was  
17 marked for identification as of this  
18 date.)  
19 Q. Do you see this is an email from  
20 Mr. Kiblsky to Neil Steiner, Camille  
21 Ablousleiman, and yourself, dated November 13,  
22 2012, and then the attachment is this UBS report  
23 from September 2nd, 2010.  
24 MR. BLOOR: Just so the record is  
25 clear, what is this marked, the email?

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1 CONFIDENTIAL -- Claudio Khamis  
2 THE REPORTER: 23  
3 Q. I'll represent the second document was  
4 previously marked at Mr. Kiblsky's deposition,  
5 but this is the attachment.  
6 You referenced the UBS report, but I want  
7 to focus on this first, and you referenced that  
8 it talked about quasi-sovereign status.  
9 Do you see that reference in the beginning  
10 of the email?  
11 A. Yeah.  
12 Q. So you believe that you reviewed this  
13 in 2010?  
14 A. I saw this in a -- I clearly remember  
15 this document.  
16 Q. Because you made a number of other  
17 purchases in September of 2010 of the  
18 subordinated notes.  
19 Do you recall that?  
20 A. After this or prior to this?  
21 Q. If you look at Exhibit 19 --  
22 A. Yes.  
23 Q. And if you turn to the page ending  
24 71 --  
25 A. Please clarify your question, because

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1 CONFIDENTIAL -- Claudio Khamis  
2 you're getting me very confused, because we're  
3 here on the report, and you are here at some  
4 purchases.  
5 Q. You previously testified that you  
6 reviewed a report from UBS regarding the  
7 restructuring.  
8 This is that report, right, this UBS  
9 report?  
10 A. Yes.  
11 Q. Okay. I want to go back to your  
12 purchases of BTA subordinated notes.  
13 You purchased additional subordinated notes  
14 in September of 2010?  
15 A. Correct.  
16 Q. And if you see Exhibit 19, the  
17 page ending 2771, it reflects your purchases?  
18 A. Yeah.  
19 Q. They are all September 13th of 2010?  
20 A. Yeah.  
21 Q. It's one, two, three purchases of  
22 notes.  
23 Do you see that?  
24 A. Yeah.  
25 Q. Is it your recollection that you

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1 CONFIDENTIAL -- Claudio Khamis  
2 reviewed this UBS report before you made these  
3 three purchases?  
4 A. The timeline is -- is that this report  
5 is issued, and I read it before, and clearly the  
6 transaction are made after I read this report.  
7 Q. And was this report something you  
8 relied upon when you made those purchases?  
9 A. No. This report doesn't have much  
10 information on it, besides saying that it was  
11 successful, and we knew that already.  
12 Q. How did you know that?  
13 A. Because the terms of the exchange.  
14 I'm pretty sure the terms of the exchange were  
15 prior to this report.  
16 Q. And you had reviewed those terms prior  
17 to this report?  
18 A. I -- things happen when they happen.  
19 What I remember about this report, that the  
20 only thing that was new to me about this report  
21 is that a UBS analyst came to the same  
22 conclusion I came by for by myself.  
23 Q. Which was that?  
24 A. I think that to me, for sovereign  
25 investment, I was very happy about the terms of

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1 CONFIDENTIAL -- Claudio Khamis  
2 restructuring. I was very happy about  
3 everything that was going on at the time. For  
4 me, the huge amount of loans claimed to be in  
5 bad condition and the amounts put on the trust  
6 deed were -- was something I relied on, and I  
7 relied on the collection effort at the time.  
8 So as I said, again, the bank is well  
9 capitalized, good collection efforts on the way,  
10 and a person that works for a bank, a major  
11 world bank, that knows the banking business, was  
12 arriving to the same conclusion I arrived on my  
13 own without having all the manpower that BTA,  
14 SK, or UBS has at this time. It was something  
15 for me to say okay.  
16 Listen. This is the stuff I'm checking all  
17 the time when I was saying you I throw out  
18 things, I think something, and then I look for  
19 confirmation, whether it's talking to somebody  
20 or checking it against some stuff that is  
21 happening or something that I expect. It was  
22 a --  
23 I felt very good when -- when I could  
24 confirm my -- that what I analyzed was -- was  
25 correct.

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1 CONFIDENTIAL -- Claudio Khamis  
2 But reliance? I don't rely on reports made  
3 by analysts, as I mentioned before. Every  
4 investment theme has its own set of factors that  
5 get my attention, and I weigh them differently  
6 according to what it is.  
7 Q. And do you know if you had reviewed  
8 the excerpts of the information memorandum prior  
9 to September 2010?  
10 A. The excerpts of the information  
11 memorandum were reviewed pretty much when they  
12 became available. It was -- it was --  
13 There was a great deal of curiosity at the  
14 moment to understand what the recovery units  
15 were, because I never saw something like this  
16 before, and it was a very orderly and it was put  
17 under a trust deed, and we understood it was  
18 completely out of Kazakh hands. It was under  
19 Bank of New York with a very clear pattern of --  
20 of collection. It's something that caught our  
21 attention.  
22 And for one more thing, they were priced  
23 very little. They were trading at, like, four  
24 percent, and the amount of assets in the trust  
25 deed was significant.

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1 CONFIDENTIAL -- Claudio Khamis  
2 Q. I want to go back to Exhibit 19 in  
3 connection with what you just said. We talked  
4 about the securities you received in the  
5 exchange.  
6 If you look at the second page 71, do you  
7 have that page in front of you?  
8 A. Excuse me?  
9 Q. Exhibit 19, which is the  
10 September 21st account statement --  
11 MR. BLOOR: 19 is the account  
12 statement.  
13 A. This?  
14 Q. Yes.  
15 If you turn to the second page, the  
16 page ending 2771.  
17 Do you have that?  
18 A. Page 14 out of 16 I have  
19 Where are you?  
20 Q. Exactly. If you see in the middle of  
21 that page that reflects the additional purchases  
22 of subordinated notes, it also reflects that you  
23 sold the senior notes the day after.  
24 Is that consistent with your memory?  
25 A. It's consistent with that I discussed

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1 CONFIDENTIAL -- Claudio Khamis  
2 when I gave the instruction to swap.  
3 Q. You gave an instruction to UBS to sell  
4 senior notes and purchase --  
5 A. And purchase subordinated, yes.  
6 Q. And prior to that time, you had  
7 already received the exchange. You had  
8 already --  
9 A. Listen, Jonathan, the exact timeline  
10 is on the papers --  
11 Q. It is.  
12 A. -- I don't have recollections of stuff  
13 that this one of a thousands of stuff I have  
14 done in the last ten years.  
15 Q. You agree with the timelines that's  
16 reflected in Exhibit 19?  
17 A. Of course, I agree.  
18 Q. So on September 3rd, you received the  
19 securities in exchange; and then September 13th,  
20 you bought additional subordinated notes; and  
21 then the next day, September 14th, you sold the  
22 senior notes that you received in the exchange.  
23 That's what your recollection is?  
24 A. Excuse me. Can you repeat?  
25 Q. Let me simplify this.

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1 CONFIDENTIAL -- Claudio Khamis  
2 You have no reason to dispute the timeline  
3 that's in the account statement?  
4 A. No, no, no. I have no reason to  
5 dispute the timeline. The account statement,  
6 it's probably more accurate than me always. I  
7 mean, they are Swiss. I am not.  
8 Q. And you had no reason to dispute that,  
9 the prices that were reflected in these account  
10 statements?  
11 A. I have no reason to dispute the price.  
12 Q. I think you testified earlier that you  
13 actually checked to make sure the prices were  
14 consistent with what you requested when you  
15 ordered securities from UBS?  
16 A. I -- I do most of the stuff with UBS  
17 over the phone.  
18 Q. But you're also diligent in checking  
19 UBS' account statements to make sure it's  
20 consistent with the orders that you made?  
21 A. If I remember your questioning before,  
22 I don't spend a great deal of time checking UBS'  
23 accounts. Every time I look at them and I focus  
24 on them, they match and they are very accurate.  
25 Q. If you go -- I want to go back to

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1 CONFIDENTIAL -- Claudio Khamis  
2 before September 2010.  
3 Do you recall whether or not you had to  
4 vote on the 2010 restructuring in order to get  
5 securities in the exchange?  
6 A. I submitted everything was necessary  
7 through my broker, through UBS.  
8 Q. What was everything?  
9 A. Everything needed.  
10 Q. Do you recall what that was?  
11 A. There was -- I -- what I recall is  
12 signing a lot of paper at the time. I don't  
13 recall what it was exactly for what investment,  
14 and I recall instructing my people at UBS to  
15 participate, and basically what I wanted is the  
16 cash, the results of my investment.  
17 But it is UBS in charge of executing.  
18 MR. BLOOR: Why don't you put that  
19 aside. You're going to get another.  
20 Q. Mr. Khamis, this is a report from 2011  
21 that you produced, your entity, plaintiffs  
22 produced. It's from HSBC. It's a report dated  
23 March of 2011.  
24 Do you recall receiving this HSBC report in  
25 that time period?

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1 CONFIDENTIAL -- Claudio Khamis  
2 A. Eventually I received reports.  
3 Q. Do you know how you received this  
4 report?  
5 A. No.  
6 Q. Did you review this report when you  
7 received it?  
8 A. I'm sure I flipped over it.  
9 Q. Did you look at the page reflecting  
10 the VTA summary?  
11 A. Where is that page?  
12 Q. It's the page ending 3153.  
13 A. Okay.  
14 I don't have any recollection of this  
15 particular research.  
16 Q. You held onto this report and produced  
17 it in this case.  
18 A. Probably was one of the papers that  
19 were flying somewhere, and I found it  
20 somewhere, and I submitted it to my lawyer. I  
21 submit everything that I have available.  
22 Q. So some of the documents related to  
23 BTA you kept and produced, and some are in a  
24 landfill somewhere?  
25 A. I produced everything I had available,

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1 CONFIDENTIAL -- Claudio Khamis  
2 and if it was something from BTA or whatever it  
3 had to do with the case, I submitted it.  
4 Q. Look again at that page, 3153.  
5 Do you see HSBC has established a  
6 underweight recommendation? It's on a credit  
7 profile outlook for the company. It's on the  
8 top left.  
9 A. Yeah, I remember reading this.  
10 Q. Did you have a reaction when you saw  
11 that HSBC had established an underweight  
12 recommendation?  
13 A. Yeah. The reaction was that when you  
14 have a shocks, financial shocks or economics  
15 shocks, asset prices don't bounce back the next  
16 day. That was normal for the -- that for the --  
17 how do you say? -- NPLs not to move fast. This  
18 is in banking. It's what you should expect.  
19 Q. If you look under the --  
20 A. What was relevant at the time, this  
21 is -- this is March 2011. It was six-month  
22 after a massive undertaking of the bank had  
23 taken place. When I read this, it's the typical  
24 piece of research that says things and doesn't  
25 explain or put any substance.



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1 CONFIDENTIAL -- Claudio Khamis  
2 Q. Let's look at some of the text here  
3 that HSBC had reported. Do you see in the  
4 research view, there's a paragraph beginning:  
5 In February 2011, the bank filed another  
6 claim amounting to \$1.2 billion against its  
7 former chairman, Mukhtar Ablyazov, bringing the  
8 total claims against him to 3.3 billion. It is  
9 questionable whether any of these claims can be  
10 successful.  
11 Do you recall reading that --  
12 A. Yeah.  
13 Q. And what was your reaction to that  
14 statement?  
15 A. My reaction to that statement is what  
16 was the source of the information that the  
17 person who wrote this had available to write  
18 this.  
19 Q. Did you disagree with the statement?  
20 A. I don't have any reason at the time  
21 to -- to -- how you say? -- to believe anything.  
22 And one of the things I wouldn't have  
23 believed at the time is that this person had the  
24 knowledge to assess the recoverability of assets  
25 in the midst of the financial crisis.

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1 CONFIDENTIAL -- Claudio Khamis  
2 There could have been many things. One of  
3 it, you find Ablyazov assets. What is the price  
4 of the Ablyazov assets? Half of what he paid  
5 for or 20 percent of what he paid for or  
6 100 percent of what he paid for.  
7 How can somebody make such an assessment  
8 and do not put what he's basing it on?  
9 Q. You're talking now about the research  
10 analyst?  
11 A. I'm talking now about the research  
12 analyst.  
13 The research analyst, do you know the age  
14 that they have, usually? I'm asking you.  
15 Q. They are very young; correct?  
16 A. Correct.  
17 Q. And did you have any other sources of  
18 information about how the recovery process was  
19 going at this time?  
20 A. No. What you --  
21 The piece of information, the most relevant  
22 piece of information that we had at the time is  
23 that the bank had been restructured very  
24 aggressively and that liabilities were brought  
25 down from 11 to \$4 billion and that capital

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1 CONFIDENTIAL -- Claudio Khamis  
2 influx was put in 1.4 billion at the beginning,  
3 and then I think some deposits were also full  
4 faith.  
5 So numbers didn't make much sense to  
6 picture such an obscure view of what was going  
7 on, especially, understanding that a  
8 restructuring process doesn't finish entirely  
9 when the terms of the restructuring are out  
10 there. It's the financial system takes some  
11 time to heal, and we expect that Kazakh  
12 authorities to know about it.  
13 If, in the United States, aggressive  
14 measures of capital requirements would have been  
15 applied in the financial system during the  
16 2008-2009 crisis, you probably would have been  
17 left without banks.  
18 So massively, it was, the financial system  
19 was given state support to be able to heal and  
20 to make an assessment of the real losses and not  
21 assess the losses at the very dramatic and --  
22 how do you say? -- stressed moment.  
23 Q. Do you recall, in this time period,  
24 that the bank had not released audited financial  
25 statements? This is March of 2011.

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1 CONFIDENTIAL -- Claudio Khamis  
2 A. No. We, at the time -- we, at the  
3 time knew that the bank was well capitalized at  
4 the end of the first restructuring, and we knew  
5 about the huge amounts of provisioning done. We  
6 didn't know, and we didn't have the ability to  
7 follow all the auditing process that probably  
8 went into all the restructuring, neither all the  
9 product of the work of all participants  
10 involved.  
11 As I mentioned, I mean, several hundred  
12 millions were spent in people doing work that I  
13 assume was good work at the time. There was no  
14 way we could -- we could make an assessment and  
15 follow every report.  
16 Q. If you turn back to the report,  
17 there's a summary of the credit ratings for BTA  
18 Bank.  
19 Do you see that? It's in the top right  
20 corner.  
21 A. Excuse me?  
22 Q. If you look at the top right corner,  
23 there's a summary of the ratings from the  
24 various ratings agencies.  
25 Do you see that, there's --

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1 CONFIDENTIAL -- Claudio Khamis  
2 A. Yeah, I see those rating agencies.  
3 Q. There's Fitch and Moody's and S&P? We  
4 talked about those earlier.  
5 A. Yeah.  
6 Q. Do you see what rating is from Fitch  
7 on the subordinated debt?  
8 A. As I told you before, I'm not very  
9 much into rating agencies. I don't know how  
10 they analyze and how they rate. It's --  
11 What I know for a fact, rating agencies  
12 were the ones that gave very high valuations,  
13 not just to sub-prime -- Enron had a good  
14 valuations prior to its blowup, too, and Lehman,  
15 too -- I don't know --  
16 What is the question you're getting at?  
17 Q. Just whether you had knowledge of the  
18 ratings that BTA Bank subordinated notes had in  
19 March of 2011?  
20 A. It wasn't something I -- I looked in  
21 depth, because, as I told you, I don't know how  
22 they do their work.  
23 What I see permanently is they are failing  
24 big time in the work that they do, but I don't  
25 get into failures. I'm trying to pay attention

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1 CONFIDENTIAL -- Claudio Khamis  
2 to people who get it right  
3 Q. I've handed you, Mr. Khamis, what was  
4 marked as Exhibit 25 at Mr. Kiblisky's  
5 deposition. It's an email from Mr. Kiblisky to  
6 you, dated May 17, 2007, and it attaches an  
7 investor presentation. It's a document that you  
8 produced.  
9 Do you recall this email?  
10 A. Yes.  
11 Q. Did you review the attachment when you  
12 received the email?  
13 A. Yes.  
14 Q. What was your reaction, if any, to the  
15 presentation that BTA had provided to investors?  
16 A. I read that as a very good news. The  
17 Kazakh economy was growing. Kazakh had high  
18 commodity prices and a big producing commodity  
19 country, a lot of -- a lot of companies in the  
20 commodity business. It was in the general --  
21 general situation for the country was a very  
22 good one, and banks usually benefit from a  
23 prosperous economic environment.  
24 Q. The page ending 4475 is a loan  
25 portfolio restructure.

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1 CONFIDENTIAL -- Claudio Khamis  
2 Is this one of the slides you reviewed when  
3 you reviewed this presentation?  
4 A. Yeah. We reviewed the loan portfolio  
5 structure.  
6 Q. And if you turn the page, there's an  
7 analysis of nonperforming loans.  
8 A. What part are you referring to, the  
9 same page, loan portfolio restructuring or the  
10 next one?  
11 Q. The next one.  
12 Did you review this in connection with your  
13 review of the PowerPoint?  
14 A. Yeah.  
15 Q. And do you see the key comments?  
16 There's a reference to nonperforming loans  
17 outside of Kazakhstan.  
18 A. Yeah.  
19 Q. And those are the loans which the  
20 company was trying to recover on, right?  
21 A. It wasn't clear to us if those were  
22 all the loans, because the loans portrayed that  
23 to being outside. It was my understanding, and  
24 I don't know exactly what, if this was my  
25 understanding at that time, but I would guess

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1 CONFIDENTIAL -- Claudio Khamis  
2 that these were the loans related to the former  
3 owner.  
4 Q. Mr. Ablyazov?  
5 A. Correct.  
6 Q. If you turn to the page ending 4479,  
7 look through, Mr. Khamis, to the page at the end  
8 the presentation.  
9 A. Excuse me?  
10 Q. If you turn to the page ending 4479.  
11 It's further in the presentation. It's the  
12 end --  
13 A. I want to make a --  
14 MR. BLOOR: Let him ask a question.  
15 THE WITNESS: But he's going to  
16 switch page.  
17 MR. BLOOR: He's going to 4479.  
18 THE WITNESS: He's asking about the  
19 composition of the NPLs.  
20 MR. BLOOR: He hasn't asked the  
21 question right now, so go to page 4479.  
22 THE WITNESS: Okay. Okay.  
23 Q. This is a presentation of the balance  
24 sheet.  
25 Did you review this when you saw the

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1 CONFIDENTIAL -- Claudio Khamis  
2 presentation?  
3 A. Yes. I flipped through it. I saw it.  
4 Q. And did you understand that the  
5 information was extracted from the audited  
6 financial statements?  
7 A. I don't --  
8 Q. Do you see the footnote on the chart?  
9 It says source, BTA Bank extracted from audited  
10 consolidated financial statements.  
11 A. All the information I saw at the time  
12 coming from official source, I deemed it to be  
13 scrutinized and well accounted for.  
14 Q. Do you understand the difference  
15 between an audited financial statement and  
16 unaudited financial statement?  
17 A. I understand the different between  
18 audited and unaudited.  
19 But I have to tell you, when I was reading  
20 this, it was right after the first restructuring  
21 that was a massive undertaking by a lot of  
22 western companies and advisors and the support  
23 of the state through its welfare fund. So -- so  
24 at the time, I expected everything to be  
25 careful. I wouldn't have made a difference,

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1 CONFIDENTIAL -- Claudio Khamis  
2 because, as I said, the bank was in government  
3 control.  
4 Q. And did you understand that, when the  
5 financial statements were issued, the audited  
6 financial statements, the auditor had required  
7 BTA Bank to report the recovery units on its  
8 balance sheet?  
9 A. Yes. I -- I remember knowing about  
10 it, but I don't -- I don't remember specifically  
11 this document.  
12 I remember another document.  
13 Q. Do you see in this document, the  
14 second bullet from the bottom:  
15 Recovery units in the amount of 119.7  
16 tenge, billion tenge, were recognized under IAS  
17 39 requirements on the balance sheet based on  
18 the fair value of the future cash flows the bank  
19 expects to receive on the underlying recovery  
20 assets  
21 Do you recall paying attention to that when  
22 you received this presentation?  
23 A. I remember the theme. I don't have  
24 recollection specifically to this presentation,  
25 but most likely, yes.

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1 CONFIDENTIAL -- Claudio Khamis  
2 Q. What impact would that have on the  
3 subordinated notes that you held?  
4 A. At the time, I remember reading  
5 information that didn't make any sense. The --  
6 the recovery units structures, as they were  
7 portrayed in the information memorandum, were  
8 segregated and placed under a trust deed at Bank  
9 of New York.  
10 The concept of segregating and accounting  
11 for it as a liability when it was a structure  
12 that was contingent upon recoveries, so if there  
13 was no recoveries, there was nothing to split,  
14 and it was more kind of a sharing agreement than  
15 a liability, as it was portrayed.  
16 So this stuff, there were some other  
17 comments done on this regard and I -- I couldn't  
18 understand the meaning of this at the time,  
19 because it was inconsistent with what was  
20 portrayed in the information memorandum.  
21 Q. Do you recall that the recovery units  
22 could be accelerated if the bank defaulted  
23 again?  
24 MR. BLOOR: Objection.  
25 A. At the time, I didn't know about

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1 CONFIDENTIAL -- Claudio Khamis  
2 acceleration  
3 Q. When did you first learn about  
4 acceleration?  
5 A. I think very late on. Actually,  
6 when -- when the recovery units were claimed  
7 back or -- I think it was a long time after  
8 that. I don't recall exact moment. I don't  
9 recall if it was at the moment of this, of the  
10 second restructuring when we knew the terms.  
11 It didn't just make any sense that under  
12 restructuring you would segregate something  
13 completely to the level and extent that you put  
14 it under a trust deed to share recoveries, and  
15 then under a mechanism that contradicts the  
16 previously done would be incorporated again into  
17 the balance sheet and into ownership of BTA  
18 Bank's shareholders.  
19 Q. Have you taken any accounting classes?  
20 A. Yes, I have  
21 Q. Where did you take the accounting  
22 classes?  
23 A. I took accounting classes at  
24 university.  
25 Q. In Santiago?

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1 CONFIDENTIAL -- Claudio Khamis  
2 A. In Santiago.  
3 Q. And do you feel that you are competent  
4 to read and analyze financial statements?  
5 A. I'm not an expert in their  
6 terminology. Rules of accounting vary from  
7 country to country, and there are --  
8 But in general terms, I would say I  
9 understand, and what I do not understand, I tend  
10 to figure out a way to.  
11 Q. So do you understand what the impact  
12 is on the recognition of the recovery units on  
13 the balance sheet on the notes that you held,  
14 the subordinated notes?  
15 MR. BLOOR: Objection.  
16 Q. Would it make them less valuable or  
17 more valuable?  
18 A. Again --  
19 MR. BLOOR: Objection.  
20 A. -- again, it was very hard to -- to  
21 understand how this fit with what was portrayed  
22 in the information memorandum and was portrayed  
23 at the -- at the end of the first restructuring.  
24 Q. Did you ask anyone at UBS to explain  
25 what the acceleration of the recovery units --

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1 CONFIDENTIAL -- Claudio Khamis  
2 A. No.  
3 Q. Did you ask anyone for guidance on  
4 what this disclosure would have on your  
5 subordinated notes?  
6 A. No. I read the comments from the  
7 analysts that were from the banking sector.  
8 There was a JP Morgan report.  
9 MR. BLOOR: Are you talking at the  
10 time of the disclosure?  
11 MR. WALSH: Yes.  
12 THE WITNESS: Pretty much.  
13 Q. I'm going to show you the JP Morgan  
14 report. This was previously marked at  
15 Mr. Kiblsky's deposition.  
16 MR. BLOOR: After this, maybe we can  
17 take a quick little break.  
18 MR. WALSH: That's fine.  
19 Q. Mr. Khamis, this an email from  
20 Mr. Kiblsky to you, dated May 18, 2011 --  
21 A. Yeah.  
22 Q. -- and it attaches the JP Morgan  
23 report of the same date.  
24 Did you, do you recall seeing this email  
25 with this attachment?

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1 CONFIDENTIAL -- Claudio Khamis  
2 A. Yes. I remember reading -- reading it  
3 carefully.  
4 Q. What was your reaction to the report?  
5 A. My reaction to the report was that it  
6 was annoying.  
7 Specifically, I focused a lot of attention  
8 on the second paragraph where it says another  
9 difference in the audited and draft numbers was  
10 the inclusion of the recovery notes to, as an  
11 on-balance-sheet liability. We were surprise by  
12 this inclusion, since the notes and cash flows  
13 are contingent on recoveries from NPLs and  
14 litigation enhanced by definition uncertain,  
15 were designed as an off-balance-sheet item.  
16 We believe that this is a very conservative  
17 stance from the auditors, which also serves --  
18 and I underline serves, because I have  
19 underlined it in my notes -- to reduce the  
20 bank's equity.  
21 Why would somebody use the word -- words  
22 serve to reduce the bank's equity? Why would  
23 you have a situation in which somebody that is  
24 publicly saying that this effort of stabilizing  
25 the Kazakh financial system, that is in the

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1 CONFIDENTIAL -- Claudio Khamis  
2 effort or to restructure the biggest bank in  
3 Kazakhstan, that committed funds and provision  
4 massively, do or take into the balance sheet  
5 something that was, as a JP Morgan analyst says,  
6 put an on-balance sheet what something that was  
7 designed as an off-balance-sheet item, and this  
8 was exactly what we understood from the  
9 information memorandum.  
10 Q. Who do you understand the auditors to  
11 be in that sentence?  
12 A. Excuse me?  
13 Q. Who were the auditors in the  
14 sentence --  
15 A. I don't remember.  
16 Q. They were the outside auditors, right,  
17 the outside accounting firm?  
18 A. Most, to my knowledge, the undertaking  
19 of the restructuring, it was with the  
20 participation of massive advisors and auditors  
21 that were not Kazakh firms.  
22 Q. If you go to the top of the report,  
23 you see that BTA released these audited  
24 financials a week before this --  
25 MR. BLOOR: Let him answer.



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1 CONFIDENTIAL -- Claudio Khamis  
2 Q. To put it in context, so the audited  
3 financials were released the week before, and  
4 there was the investor call that we just  
5 reviewed in the presentation.  
6 Who do you think audited the financial  
7 statement that were released in May of 2011?  
8 MR. BLOOR: Objection to form.  
9 You can answer.  
10 A. I don't -- I don't recall at the time  
11 who I thought it was.  
12 Q. But you understand that BTA had  
13 engaged an outside accounting firm to audit its  
14 financial statements?  
15 A. From what I recollect, there was  
16 mentioning about big four accounting firms  
17 involved in the process of loan loss provisions  
18 way prior to this, to this date.  
19 And if I recall well, there were also  
20 accounting firms involved in accounting and  
21 preparing the reports for the recoveries, for  
22 the recovery notes trust deed.  
23 Q. I want to go back to the accounting  
24 classes, right, and your understanding of what  
25 an audited financial statement is.

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1 CONFIDENTIAL -- Claudio Khamis  
2 You understand that companies prepare the  
3 financial statements; right?  
4 A. Yes.  
5 Q. And then they hire an outside firm to  
6 audit the financial statements?  
7 A. Yes.  
8 Q. And in this case, the bank had hired  
9 an outside accounting firm, PWC? Do you recall  
10 if it was PWC or one of the other big four?  
11 MR. BLOOR: Objection.  
12 A. I don't recall.  
13 Q. And that outside accounting firm had  
14 advised the bank to recognize the recovery units  
15 on its balance sheet, and the bank had followed  
16 that advice.  
17 MR. BLOOR: Objection.  
18 A. What I recall is that at the time  
19 the -- at the time the restructuring was  
20 finished, we knew that it was a massive effort  
21 from the government with the assistance of a lot  
22 of different consultants and advisors, and that  
23 the result of the restructuring was the result  
24 of the work of everybody involved.  
25 And it was our understanding that, at the

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1 CONFIDENTIAL -- Claudio Khamis  
2 time this was done, there were involved other  
3 accounting firms in the process or accounting  
4 experts to assess the quality of the loan  
5 portfolio and many other jobs related to  
6 financial analysis.  
7 As I mentioned, the key point that made our  
8 attention here, is that this -- that this --  
9 there were a couple things.  
10 The trust deed, as it was portrayed in the  
11 recovery units, was portrayed -- was portrayed  
12 as a structure that would hold assets from the  
13 former bank BTA, troubled assets, for a big  
14 amount of billions, and those assets would be  
15 under the trust deed and would be recovered by  
16 the bank and split at half and half.  
17 I don't understand how somebody could have  
18 converted this sort of structure into something  
19 that could end up into being a liability for  
20 somebody, because the pure nature is if I  
21 collect, I split. If I don't collect, there was  
22 no splitting.  
23 Q. Mr. Khamis, I want to also give you  
24 another rule of the deposition. I just want you  
25 to answer my questions, not just what you want

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1 CONFIDENTIAL -- Claudio Khamis  
2 to talk about, so let me ask this again  
3 Was it your understanding that the outside  
4 auditors advised the bank to recognize these  
5 recovery units on the balance sheet? It's a yes  
6 or no question.  
7 A. I don't see anything here that -- I  
8 don't have a recollection of what I thought at  
9 the time.  
10 Q. You testified earlier that you were  
11 very interested in the sentence:  
12 We believe that this is a very conservative  
13 stance from the auditors, which also served to  
14 reduce the bank's equity.  
15 MR. BLOOR: Objection.  
16 Q. Do you understand that it was the  
17 outside auditors who took a conservative stance  
18 with respect to the recovery units? Again,  
19 that's a yes or no.  
20 MR. BLOOR: Objection.  
21 A. It seems -- I understand the word  
22 stance as a view from the auditors. As a view,  
23 not as an extraction.  
24 I don't know how it operated at the time.  
25 Q. Do you know the difference between a



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1 CONFIDENTIAL -- Claudio Khamis  
2 qualified and unqualified audit opinion?  
3 A. A qualified and nonqualified? I  
4 assume that a qualified is qualified, and a not  
5 qualified is not qualified.  
6 Q. Did you have any understanding whether  
7 the outside accounting firm here gave a  
8 qualified or nonqualified opinion?  
9 A. Again, when I review information,  
10 Jonathan, I try to understand what information  
11 says and how it makes sense.  
12 And this information was contradicting the  
13 basic principals of the restructuring and what  
14 is -- what was informed or what I understood of  
15 it.  
16 Q. Let me turn your attention to the next  
17 bullet point. It begins:  
18 BTA clearly has many ongoing challenges,  
19 which management addressed on the conference  
20 call, although they did not provide concrete  
21 numerical guidance for 2011.  
22 At this time we're referring to the 2010  
23 financial results, but there is a reference to  
24 the negative carry in that sentence.  
25 Do you see that?

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1 CONFIDENTIAL -- Claudio Khamis  
2 A. Yes.  
3 Q. And are you familiar with the term  
4 negative carry swap?  
5 A. Yes, I am.  
6 Q. And this was the disclosure to the  
7 market that the bank had a negative carry, as  
8 the JP Morgan report calls it?  
9 MR. BLOOR: Objection.  
10 A. For us, it was not a disclosure of --  
11 of a negative carry swap. We, the only thing  
12 that we could see here that was a financial  
13 transaction between related parties, both owned  
14 by the government, one being the one that  
15 supported the institution, and the other one --  
16 the other one being the institution itself.  
17 MR. WALSH: Why don't we take a  
18 quick break.  
19 THE VIDEOGRAPHER: The time is  
20 3:35 p.m. This ends media number 3.  
21 (Whereupon, a brief recess was  
22 taken.)  
23 (Whereupon, Khamis Exhibit  
24 Number 24, an amended complaint, was  
25 marked for identification as of this

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1 CONFIDENTIAL -- Claudio Khamis  
2 date.)  
3 THE VIDEOGRAPHER: The time is  
4 3:52 p.m. This begins media number 4.  
5 Q. Mr. Khamis, we were talking about the  
6 JP Morgan report, dated May 18th, the previous  
7 exhibit. I've just hand you the amended  
8 complaint in this case. It's Exhibit 24.  
9 Have you seen this complaint before?  
10 A. Yes.  
11 Q. Were you involved in preparing the  
12 complaint?  
13 A. My lawyer mainly prepared it.  
14 Q. Mr. Jaffe?  
15 A. Yeah.  
16 Q. Did you provide him documents that  
17 helped him prepare the complaint?  
18 A. I provided everything that I had, and  
19 I assume that you guys have.  
20 Q. Did you review the complaint before it  
21 was filed?  
22 A. Pretty sure I did.  
23 Q. And did you make comments on the  
24 complaint, tell Mr. Jaffe this is wrong, fix it?  
25 A. I may have had some questions about

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1 CONFIDENTIAL -- Claudio Khamis  
2 it. I don't remember about corrections  
3 Q. What type of suggestions?  
4 A. I don't remember about suggestions. I  
5 had questions.  
6 Q. Questions, sorry.  
7 If you look at page 17 --  
8 A. Yes.  
9 Q. -- there's a reference in 48 to the  
10 May 17th investor call.  
11 Do you see that?  
12 A. Yes.  
13 Q. And there's a reference to the  
14 negative carry.  
15 Do you see that?  
16 A. Yes.  
17 Q. And the next paragraph is the  
18 paragraph about the JP Morgan report, dated  
19 May 18th.  
20 A. Excuse me, can I -- the next  
21 paragraph?  
22 Q. Si, paragraph 49.  
23 A. If you give me --  
24 May I read it, because my memory --  
25 MR. BLOOR: Take your time.

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1 CONFIDENTIAL -- Claudio Khamis  
2 Q. Read whatever you need to read.  
3 A. Can I have a pen?  
4 Q. There you go.  
5 (Whereupon, the Witness complied  
6 with the request.)  
7 Q. May I ask my question?  
8 A. Let me finish.  
9 Q. Let me know when you're ready.  
10 A. Please go ahead.  
11 Q. You have an allegation about the JP  
12 Morgan report?  
13 A. Yes.  
14 Q. And then in paragraph 50, plaintiffs  
15 allege:  
16 In response to these disclosures, the BTA  
17 Bank debt, including the subordinated notes,  
18 dropped significantly.  
19 And it goes through the drop.  
20 So you recall that the market reacted  
21 negatively to this JP Morgan report?  
22 A. I don't have a clear recollection  
23 about what happened when. I remember that it  
24 was kind of a choppy way down during the whole  
25 process.

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1 CONFIDENTIAL -- Claudio Khamis  
2 Q. But you've alleged here that there was  
3 a significant decrease from the value.  
4 A. I'm sure this was made on the  
5 information available, either.  
6 Q. You have no reason to disagree with  
7 the allegation?  
8 A. No. I don't think so. To disagree I  
9 would have to have a Bloomberg terminal in front  
10 of me.  
11 (Whereupon, Khamis Exhibit  
12 Number 25, email, was marked for  
13 identification as of this date.)  
14 MR. BLOOR: Is this 25?  
15 MR. WALSH: Yes.  
16 Q. Mr. Khamis, I've marked as Exhibit 25,  
17 a series of emails from Matthew Poe of Vision  
18 Advisors to you and Mr. Claudio Izzo.  
19 Who is Matthew Poe?  
20 A. Matthew Poe was, at the time, an  
21 analyst or fund manager of Vision, of the Vision  
22 business.  
23 Q. What is Vision?  
24 A. I don't know exactly.  
25 Vision is a company that I know they are

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1 CONFIDENTIAL -- Claudio Khamis  
2 involved in emerging markets, but I don't know  
3 much about their business in itself. I know  
4 that they have clients that buy -- that invest  
5 with them.  
6 Q. How did you come to meet Vision  
7 Advisors?  
8 MR. BLOOR: Objection.  
9 You can answer.  
10 Q. Well, what was the first interaction  
11 that you had with Vision Advisors?  
12 A. It was through -- through Claudio  
13 Izzo, who was -- I met him many, many years when  
14 we were both younger. He was older than me. He  
15 was the ex-boyfriend of a very famous person,  
16 and her sister was the girlfriend of one of my  
17 very good friends.  
18 And Claudio Izzo had a career in the  
19 banking industry, and then he switched jobs and  
20 he ended up working here, and it was -- he lived  
21 very close by to where I used to spend time at  
22 the time in Santiago, so we would have coffee  
23 pretty much every day at Starbucks, and we chat  
24 about markets and what he thought, what I  
25 thought, what -- using him as a -- how do you

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1 CONFIDENTIAL -- Claudio Khamis  
2 say? -- in the boxing, as a sparring to check my  
3 analysis or see what he had to say.  
4 Q. A sparring partner?  
5 A. Not really.  
6 But at some point, mostly social that we  
7 would have a regularly, almost every day.  
8 Q. Did you talk about BTA Bank?  
9 A. I -- I talked about my investments at  
10 the time, and most likely BTA Bank was a topic  
11 that I was investing. This was --  
12 What is the date of this?  
13 Q. This is as of June 20, 2011.  
14 A. Correct.  
15 Still at the time, prices globally were  
16 pretty much hammered. The global economy was  
17 still trying to figure out what happened, and  
18 there was a lot of interesting stuff to talk  
19 about at the time.  
20 I don't recall the topics, though.  
21 Q. Mr. Poe has forwarded to you an email  
22 from VTB Capital Research.  
23 Are you familiar with that company?  
24 A. I think it's a Russian company.  
25 Q. And it's an email entitled Kazakh

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1 CONFIDENTIAL -- Claudio Khamis  
2 banks, BTA is not a contagion risk for KKB,  
3 upgrade to buy.  
4 Is this a report on another Kazakh bank?  
5 A. For me?  
6 Q. Do you understand that this is a  
7 report from VTB on KKB?  
8 A. No. KKB was not, nothing I was  
9 focused on at the time.  
10 Q. Do you see there's a discussion about  
11 BTA in this email?  
12 A. The discussion on BTA was probably the  
13 reason why -- why Matthew would send it to me.  
14 Q. And do you see that the report is that  
15 BTA bonds have plummeted and are down 28 percent  
16 over the last two months?  
17 A. Yes.  
18 Q. And that follows the report of year  
19 2010 results that revealed negative equity.  
20 A. Correct.  
21 Q. And that, as you understand it, refers  
22 to the May 18th report and May 17th presentation  
23 we talked about previously?  
24 MR. BLOOR: Objection.  
25 A. Correct.

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1 CONFIDENTIAL -- Claudio Khamis  
2 Q. And the report from VTB goes on to say  
3 that this event forced the reports -- in May:  
4 Forced the markets to price another round  
5 of debt restructuring.  
6 What's your understanding of what VTB is  
7 telling you there?  
8 MR. BLOOR: Objection.  
9 A. As I said before, some analysts,  
10 depending on what bank is issuing it, I would  
11 pay more attention to it.  
12 For instance, JP Morgan, I would pay more  
13 attention than HSBC. JP Morgan would pay more  
14 attention to VTB. And this, you can see,  
15 four-line assessment.  
16 And for the way I look at things and I  
17 analyze things, I don't take what somebody  
18 writes for its worth. I have to -- it has to  
19 make sense. It has to have some backup, and I  
20 didn't see, as of today, and probably I didn't  
21 see at the time, besides describing that the  
22 bond would fall 28 percent.  
23 The negative capital that you're pointing  
24 at is, was another of the big questions that I  
25 had at the time that contradicted the version of

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1 CONFIDENTIAL -- Claudio Khamis  
2 a successful restructuring by the government of  
3 the Kazakhstan  
4 So still, at the time, when I was receiving  
5 those reports, I was trying to make sense, and I  
6 couldn't make sense of what was portrayed as a  
7 result of the first restructuring in positive  
8 capital and the reports of the main presentation  
9 are referring to negative capital in  
10 December 20, 2010 --  
11 Before, let me finish my answer.  
12 -- December 2010, according to my  
13 accounting, was 132 days after the release of  
14 the first restructuring. Massive negative  
15 capital, as we told, so somebody is getting it  
16 wrong.  
17 And we relied on -- on the job done by the  
18 government of Kazakhstan, and given the massive  
19 amount of provisioning and haircuts and the  
20 influx of cash, that such numbers were very hard  
21 to be interpreted and were inconsistent, what  
22 was portrayed.  
23 Q. Were you following the reports closely  
24 on BTA Bank in this time period?  
25 A. I was following closely the -- the

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1 CONFIDENTIAL -- Claudio Khamis  
2 public statements by government officials.  
3 All those micro information was very  
4 confusing, and it was confusing because of, as I  
5 said, many, many times, the amount of  
6 intervention from the government and the bank  
7 was massive. The amount of haircuts was  
8 massive. Everything was massive.  
9 And there is a limit to which bad assets  
10 can be out there, and if the bad assets were as  
11 portrayed in this situation, then the question  
12 was the information memorandum wrong? Was the  
13 successful, deemed successful, and we didn't see  
14 any information at the time, all disclosure  
15 indicating or explaining that inconsistency.  
16 Q. Did you go on the BTA website and look  
17 for presentations about the financial  
18 statements?  
19 A. I remember Googling. I don't remember  
20 exactly what I found on the Googling. Probably,  
21 if you Google BTA, you're going to find the BTA  
22 website.  
23 Q. I'm going to show you another exhibit,  
24 Exhibit 27. This is another email from Mr. Poe  
25 to you. This is a report on asset quality stats

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1 CONFIDENTIAL -- Claudio Khamis  
2 as of May 2011.  
3 Do you recall receiving email?  
4 A. Did Mr. Poe send this to me? I don't  
5 recall this particular email. Where are you  
6 looking at?  
7 Q. The title of the email is Kazakh banks  
8 asset quality in May, May 21, and this is an  
9 email that you produced in this case.  
10 Do you see the chart that goes through the  
11 various banks and what the asset quality stats  
12 were?  
13 A. I cannot read that properly. I  
14 mean --  
15 Q. So this is a report of loans overdue  
16 above 90-days regulatory reporting.  
17 Do you see that? Do you see the footnote  
18 at the bottom of that chart?  
19 A. Yes.  
20 Q. If you turn the page, there's  
21 additional reporting on nonperforming loans.  
22 A. Correct.  
23 Q. And the email Mr. Poe sends to you, he  
24 writes:  
25 Latest results published yesterday --

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1 CONFIDENTIAL -- Claudio Khamis  
2 A. Sir, where are you reading?  
3 Q. Right on the front page.  
4 A. Okay.  
5 Q. This is how you produced it. I'm  
6 sorry.  
7 Latest results published yesterday, NPLs  
8 fell a little bit, but are still amazingly high.  
9 A. Yes.  
10 Q. Did you have any discussions with  
11 Mr. Izzo about this report?  
12 A. No.  
13 Q. What did you think when you saw this  
14 email?  
15 A. As I told you before, I mean, the bank  
16 was coming from a very traumatic shock, the  
17 whole economy, and it was claimed at the time  
18 that the loan portfolio had a lot of problems.  
19 Massive provisioning had been done.  
20 We saw this as too early to judge the  
21 performance of the loan portfolio, and again, to  
22 add to the answer, very inconsistent to a  
23 successful restructuring.  
24 Q. As of this time period, the June time  
25 period --

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1 CONFIDENTIAL -- Claudio Khamis  
2 A. Mr. Walsh, between first and second  
3 restructuring, how -- how many months passed?  
4 Q. Do you recall that you sold some of  
5 those subordinated notes in July of 2011?  
6 A. I remember selling subordinated notes,  
7 yes.  
8 Q. Why did you sell them?  
9 A. I don't recall. I don't think the  
10 amount was too -- too significant. I probably I  
11 saw another asset price, different from Kazakh  
12 investment, in which it made sense at the time  
13 to invest a little bit of money, but nothing  
14 meaningful.  
15 Q. Let me showing you the next email.  
16 This is Exhibit 28. I believe this is from  
17 Mr. Kiblsky's deposition as well, and it's  
18 Mr. Izzo forwarding you another report --  
19 A. Sir, which one are you on, Exhibit 28?  
20 Q. Right.  
21 And this is a report on BTA Bank and  
22 Alliance Bank.  
23 Do you see that?  
24 A. Yeah.  
25 Q. And did you review this report when

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1 CONFIDENTIAL -- Claudio Khamis  
2 you received it?  
3 MR. BLOOR: Objection.  
4 Q. You did receive it, right, Mr. Khamis?  
5 A. Yeah. I have to have received it,  
6 because it says from Claudio Izzo to me, and I  
7 forwarded it, so of course I received it.  
8 Q. Did you review it when you received  
9 it?  
10 A. I'm not so sure. I mean, what -- if  
11 it said Alliance Bank, the part of BTA Bank  
12 would have been my interest at the time  
13 Q. Was Fitch one of the rating agencies  
14 that you looked at and reviewed in connection  
15 with BTA?  
16 A. I don't pay attention to rating  
17 agencies.  
18 Q. This is Exhibit 29.  
19 A. Do I put this where?  
20 MR. BLOOR: In the pile.  
21 THE WITNESS: Sometimes he makes me  
22 work.  
23 Q. Mr. Khamis, this was marked at  
24 Mr. Kiblsky's deposition as well. There's a  
25 translation on one page, and then the Spanish on

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1 CONFIDENTIAL -- Claudio Khamis  
2 the second page. I'll give you a moment to look  
3 at it and I'll ask you a few questions.  
4 (Whereupon, the Witness complied  
5 with the request.)  
6 A. Yeah, I see this email.  
7 Q. What's going on here. It's an email  
8 from you to Patrick --  
9 A. To Patrick.  
10 Q. -- date June 27, 2011?  
11 A. Correct.  
12 At this time, my assessment is that  
13 recovery units are going to be a better  
14 investment than the subordinated note at \$0.45,  
15 and that if I can buy, as it says, sell at 43  
16 and buy at 4.3. I saw there was a relationship  
17 of ten times, that I'm inclined at this moment  
18 to -- to have more recovery notes, more  
19 investment in recovery units at 4.3 than the  
20 bonds.  
21 Q. Why do you write trade urgent?  
22 A. Because market is always moving, so, I  
23 mean, finding at 43 and 4.3, I saw that you  
24 don't have those possibilities to get out of one  
25 and the other one in the same condition.

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1 CONFIDENTIAL -- Claudio Khamis  
2 Q. And you write -- and I'm reading from  
3 the English translation -- please sell BTA bonds  
4 and buy recovery notes.  
5 A. Correct.  
6 Q. The idea is to sell the bond at the  
7 same price that you buy the recovery notes?  
8 A. Multiplied by ten.  
9 I give you an example to make it more  
10 clear.  
11 Q. Sell at 43 and buy recovery at 4.3?  
12 A. Correct.  
13 Q. Please execute it.  
14 A. Correct. I want to execute it in that  
15 relationship.  
16 Q. And what did Mr. Kiblisky tell you?  
17 A. I don't see any reply here.  
18 I don't know what he replied. Most likely  
19 he didn't -- I don't know what happened --  
20 Q. It see the top of the page it reads  
21 [in Spanish].  
22 That's an email --  
23 A. Correct.  
24 Q. What did he tell you?  
25 A. That he couldn't execute according to

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1 CONFIDENTIAL -- Claudio Khamis  
2 the terms I was telling him to execute.  
3 Q. Why not?  
4 A. Because the market was extremely  
5 liquid on BTA, so liquid that the base offer is  
6 14 and the offer is 45.  
7 MR. WALSH: I'm going to mark  
8 another exhibit.  
9 A. And the information coming from the  
10 market is also a little bit all over the place.  
11 Q. What do you mean?  
12 A. The bid offer are wide open.  
13 Q. What does that mean to you?  
14 A. This is usually a reflection of a very  
15 liquid market.  
16 Q. Is that a good thing or a bad thing?  
17 A. I would say that that -- it doesn't  
18 mean much.  
19 Halyk Bank is a bank that is very well run  
20 and probably even more liquid than this at the  
21 time, so -- and it's owned by the daughter of  
22 the president, so it's very hard to make an  
23 assessment or make a -- to try to link it to  
24 something  
25 Q. Give me a moment while I mark an

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1 CONFIDENTIAL -- Claudio Khamis  
2 exhibit.  
3 (Whereupon, Khamis Exhibit  
4 Number 26, a UBS statement, was marked  
5 for identification as of this date.)  
6 MR. WALSH: Do you need a break?  
7 THE WITNESS: No. I am fine. We  
8 can do a little bit more and take a  
9 break.  
10 Q. Exhibit 26 an excerpt from your  
11 July 2011 statement for Atlantica. It showed  
12 that you sold two tranches of subordinated notes  
13 and bought recovery units.  
14 A. At the same time?  
15 Q. Same day, it appears.  
16 A. Same time as his email?  
17 Q. Yes.  
18 A. So then he managed.  
19 Q. Not quite.  
20 A. What do you mean?  
21 Q. He sold the notes at 43 and he bought  
22 the recoveries units at five.  
23 A. You just gave me good news.  
24 Probably. I mean, I don't know what  
25 discussion or -- or what was -- what I had in



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1 CONFIDENTIAL -- Claudio Khamis  
2 mind there.  
3 Q. How often were you talking to  
4 Mr. Kiblsky in this time period?  
5 A. Quite often.  
6 Q. Do you recall that he had been  
7 diagnosed with cancer around this time period?  
8 A. I don't recall what the time period  
9 was, but I remember the process.  
10 Q. And do you recall that he took a leave  
11 of absence from UBS?  
12 A. Yeah.  
13 Q. And he recovered from the cancer  
14 treatment, correct?  
15 A. Yeah. It was a miracle.  
16 Q. And he went back to work at UBS?  
17 A. Yeah.  
18 Q. In the time period that he was out of  
19 the office, who were you dealing with at UBS?  
20 A. Probably Ide -- or probably my level  
21 of interaction decreased. I do not recall.  
22 The person -- the person to which I -- to  
23 which I used to talk and have lunch and have a  
24 more relationship was Kiblsky.  
25 Q. Were you following the news on BTA in

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1 CONFIDENTIAL -- Claudio Khamis  
2 this time period, June, July, and August of  
3 2011?  
4 A. As I mentioned before, after the  
5 release of the information memorandum and the  
6 exchange, the news that came out in the press,  
7 at the moments that came out were very hard to  
8 understand, so I was paying attention to every  
9 little source of evidence or information.  
10 And I paid specific attention at the -- at  
11 the -- I don't know if they were press releases,  
12 but statements made out of high-ranking public  
13 officials, I think some high-ranking officials.  
14 There was something also about Kulibayev's  
15 interest in buying bonds, but I don't recall  
16 exactly the timeline, so would have to  
17 understand the timeline to know what -- what  
18 could have meant for me at a given --  
19 But it was very confusing, because, as I  
20 repeatedly said, it was inconsistent. It  
21 didn't -- it didn't add up. There was too much  
22 conflicting information.  
23 So when you looked at it down, focused on  
24 BTA, very relevant was to look up and look at  
25 the -- at the state officials, and the ones who

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1 CONFIDENTIAL -- Claudio Khamis  
2 I understood at the time were sort of leading  
3 the country and were relevant figures in the  
4 state. Very hard to . . .  
5 MR. WALSH: Let me mark another  
6 exhibit. This will be 27.  
7 (Whereupon, Khamis Exhibit  
8 Number 27, email, was marked for  
9 identification as of this date.)  
10 Q. Mr. Khamis this is an email that you  
11 sent to Mr. Kiblsky in November of 2012 and  
12 it's entitled comments, Troika, July 2011 [in  
13 Spanish].  
14 A. What?  
15 Q. [In Spanish].  
16 Can you translate the last paragraph into  
17 English, please?  
18 A. This is 2012?  
19 Q. Right.  
20 A. This is after the --  
21 Q. This is around the time period that  
22 you had retained lawyers, and the complaint in  
23 this case was filed in December 2012, but I just  
24 want you translate what's -- [in Spanish].  
25 A. Yeah, [in Spanish].

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1 CONFIDENTIAL -- Claudio Khamis  
2 This could demonstrate that at that time  
3 they were thinking in default.  
4 Q. What are you referring to there? Who  
5 is the they in that sentence?  
6 A. I -- I couldn't tell you.  
7 Q. Did you receive this July 2011 Troika  
8 report?  
9 A. Troika was a -- was issuing reports.  
10 I recall more than one of them, but I don't  
11 recall if there was more than two.  
12 MR. WALSH: Why don't we take a  
13 break, and we'll try to find them, and  
14 you can have a snack.  
15 Q. If you're not finished the answer,  
16 please go ahead.  
17 I just want to know if you received the  
18 report or not?  
19 A. I'm pretty sure I received the report,  
20 but I don't know which of the reports, because I  
21 identified the stuff either by the colors I see  
22 or by certain forms. I'm very visual.  
23 MR. WALSH: Let me take a break and  
24 we'll try to identify.  
25 THE VIDEOGRAPHER: The time is 4:23.

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1 CONFIDENTIAL -- Claudio Khamis  
2 We are going off the record.  
3 (Whereupon, a brief recess was  
4 taken.)  
5 (Whereupon, Khamis Exhibit  
6 Number 28, a Troika report, was marked  
7 for identification as of this date.)  
8 THE VIDEOGRAPHER: The time is  
9 4:39 p.m. We are back on the record.  
10 Q. Mr. Khamis, I've handed you  
11 Exhibit 28. It's an email from you to Patrick  
12 Kiblisky, and it's also dated November 6, 2012,  
13 and it's attaching the Troika report that we  
14 were just talking about.  
15 Do you see the color? Does the color  
16 refresh your memory of seeing this?  
17 A. Yeah.  
18 Q. And did you receive this report in  
19 July of 2011?  
20 A. I received this report, I'm pretty  
21 sure, around July 2011.  
22 Q. And did you review it when you  
23 received it?  
24 A. Yes, I reviewed it.  
25 Q. What was your reaction when you --

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1 CONFIDENTIAL -- Claudio Khamis  
2 A. I don't remember what was it, because  
3 I'm confused to the different -- what page are  
4 you referring -- let me go to page 26.  
5 Q. Perfect. You beat me to it.  
6 A. Yeah, the never-ending story.  
7 Q. And did you review this in July of  
8 2011?  
9 A. Yeah, I reviewed this in July 2011.  
10 Q. And do you see the discussion of the  
11 negative carry swap on the 29th page, 1572 on  
12 the bottom.  
13 A. Yeah. We would see the -- we could  
14 see the discussion going on, the same way we see  
15 on page 26, Kazakh government, within the Kazakh  
16 government, different personalities apparently  
17 have different opinions on the matter.  
18 Q. I want to focus on the negative carry  
19 swap, Mr. Khamis.  
20 You allege in the complaint this was not  
21 fully disclosed until May, and your testimony  
22 today is that it wasn't completely disclosed  
23 until later in 2011.  
24 Looking at the disclosure here in this  
25 July 2011 report from Troika, what information

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1 CONFIDENTIAL -- Claudio Khamis  
2 was missing about the negative carry swap that  
3 you would have wanted to know?  
4 A. The basic piece of information that  
5 was missing is what was it about. Again, it  
6 contradicts the principle of an entity being  
7 supported by the government and restructured by  
8 the government, and this year, one more time,  
9 shows a related-party transaction with a cost of  
10 funding that didn't make any sense.  
11 Q. What do you mean by that -- I'm sorry  
12 to stop you --  
13 But what cost of funding didn't make sense?  
14 A. I don't have a clear recollection of  
15 every piece of information about the negative  
16 carry swap, but what is -- what is the cost of  
17 the funding, the average costs was very high,  
18 close to ten percent, and the money  
19 The bank was making was, if my memory is  
20 right, four percent nominal, minus a deduction  
21 of insurance, to pay the bank given by another  
22 entity in the government while both were  
23 controlled by the government, so government  
24 would charge another government entity an  
25 insurance for paying him what he owed it.

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1 CONFIDENTIAL -- Claudio Khamis  
2 It was very weird, to say the least.  
3 Q. Did you sell any --  
4 A. So the -- the negative carry was  
5 something I carefully looked at, but it was  
6 extremely contradictory.  
7 And at the same -- during the same period  
8 of 2011, many government officials were saying  
9 that the banks would be supported and that there  
10 would be the -- I don't know exactly this  
11 words -- no problems that it -- that it was an  
12 illiquidity problem instead of an insolvency  
13 problem.  
14 We just talked about the audited reports by  
15 those qualified auditors that portray negative  
16 equity, but at the same time you have government  
17 officials speaking about illiquidity, not  
18 insolvency.  
19 Again, this points out about big  
20 inconsistencies, which was the claim of a  
21 successful and orderly restructuring, with this  
22 party written transactions, and what stood out  
23 of those transactions is that we didn't have all  
24 the information. You see a negative carry swap  
25 that contradicts the intention of having a

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1 CONFIDENTIAL -- Claudio Khamis  
2 viable entity and ongoing concern, so we didn't  
3 know what was going on with other related  
4 transactions, eventually either offsetting this  
5 or something that we didn't know.  
6 By itself, it was very hard to make sense  
7 of what it was and the purpose of why it was in  
8 place, but the fact that government officials  
9 also said that they would correct it, we deemed  
10 as strange, transitory, so we didn't deem it as  
11 permanent.  
12 And to finish my answer, we had different  
13 interpretations of all this information, post  
14 2012 restructuring that a judgment and  
15 assessment and analysis or conclusions that we  
16 were drawing while we were receiving it.  
17 So 2012, after seeing that the recovery  
18 notes were taken away from us and that we were  
19 taken away 97.5 percent of the value of our  
20 subordinated notes, then we tried to understand  
21 all those different events, like taking the  
22 auditors' stance or view to -- to register a  
23 liability that would have an accounting impact  
24 but not a real impact --  
25 Q. Did you --

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1 CONFIDENTIAL -- Claudio Khamis  
2 A. -- on -- on the capital base of the  
3 bank was something that weakening and making the  
4 bank, pointing to making the bank insolvent,  
5 again, or undercapitalized.  
6 We just couldn't make sense out of it, and  
7 if you ask me, even after, right after 2012, we  
8 still couldn't make complete sense about what  
9 all this meant and for what purpose.  
10 Only what the years after and the followup  
11 of this subsequent events, including the  
12 appearance of Commerce Bank and Halyk Bank in  
13 the picture, is when we ended up in getting a  
14 very clear understanding about the dynamics of  
15 the process and what was going on.  
16 But at the time, that I mentioned again, it  
17 was very hard to make sense.  
18 Q. When was the first time you heard  
19 there was the possibility that BTA Bank would  
20 restructure for a second time?  
21 A. It was during 2011.  
22 Q. We looked at Exhibit 25 --  
23 A. This is something I have? This here?  
24 Q. You see the discussion about the  
25 potential for second restructuring?

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1 CONFIDENTIAL -- Claudio Khamis  
2 A. Yeah, 2011.  
3 Q. So this is roughly the time that you  
4 heard that there was a potential for a second  
5 restructuring?  
6 A. When we paid attention to a potential  
7 restructuring was not from an unknown analyst.  
8 It was from, to the best of my recollection,  
9 from the statement of a government official, but  
10 I wouldn't be very sure about it, but it was  
11 during 2011.  
12 And a potential restructuring means the  
13 possibility of restructuring, not a certainty of  
14 restructuring.  
15 Q. I understand. Let me ask my questions  
16 and I'll follow up on that.  
17 MR. WALSH: Let me mark another  
18 exhibit.  
19 (Whereupon, Khamis Exhibit  
20 Number 29, email, was marked for  
21 identification as of this date.)  
22 Q. Do you have Exhibit 29 before you?  
23 A. Yes.  
24 Q. And this is another report from  
25 Mr. Poe at Vision, and do you see that,

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1 CONFIDENTIAL -- Claudio Khamis  
2 Mr. Khamis?  
3 A. Yes.  
4 Q. And this is a report on the first half  
5 results of 2011?  
6 A. Yes.  
7 Q. Do you see that Mr. Poe has identified  
8 the negative equity value as a problem for the  
9 subordinated notes?  
10 A. Yes. This is -- this is his view.  
11 Q. I understand.  
12 You received this in August of 2011?  
13 A. Yeah.  
14 Q. What was your reaction to the email  
15 when you saw it, if you had one?  
16 A. Poe has the training of an analyst.  
17 He's American from the Midwest, and he didn't  
18 have much experience at the time in banking, and  
19 my opinion, at the time, is that he was looking  
20 at a financial statements and he believed  
21 reported numbers, but he couldn't explain me at  
22 the time what happened between the capital of  
23 the bank or given a reasonable explanation about  
24 what happened with the capital of the bank  
25 portrayed as 1.9 billion, or something like

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1 CONFIDENTIAL -- Claudio Khamis  
2 this, at the end of the restructuring, and  
3 December of 2010.  
4 And he also couldn't, when we would talk  
5 about it, he couldn't answer any of the  
6 inconsistencies that I couldn't make sense out  
7 of them, so --  
8 So I understood where he was coming from,  
9 but for me to understand something, it has to  
10 make sense.  
11 Q. What's the significance of having a  
12 negative equity value?  
13 A. The significance of having a negative  
14 equity value means that if you have a negative  
15 equity, for example, you couldn't issue  
16 subordinated debt, and the implied reality that  
17 is portrayed was that the bank had negative  
18 equity, probably, and with the whole likelihood  
19 at the moment of the issue of the first  
20 information memorandum deeming the restructuring  
21 successful.  
22 Q. Does it mean that the liabilities of  
23 the bank are more than the assets of the bank?  
24 A. There is a difference here between --  
25 between accounting and reality.

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1 CONFIDENTIAL -- Claudio Khamis  
2 This is true if provisioning account,  
3 currently and realistically, for the quality of  
4 the loans. If you have over-provisioned, then  
5 not necessarily. It's not like, I mean, black  
6 and white. There are -- it's something that has  
7 to be subject to deeper analysis.  
8 And what was clear at the time that there  
9 was a lot of figures throwing out that were  
10 changing, many of them without explanation, like  
11 the inclusion of a liability on a structure that  
12 was segregated, off-balance-sheet, and you show  
13 a liability on-balance-sheet, and until 2018,  
14 nobody can explain me how that works.  
15 Q. You mentioned provisioning.  
16 Did you look at the provisioning of BTA  
17 Bank as of this time period, 2011?  
18 A. The provisioning of the bank was  
19 massive, massive.  
20 Q. The loss reserves were massive?  
21 A. Massive, massive, massive.  
22 Q. Do you believe they were overstated?  
23 A. We, as I mentioned before, I bought  
24 the first bonds that were trading prior to the  
25 2010 restructuring at around \$0.20, because my

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1 CONFIDENTIAL -- Claudio Khamis  
2 view was that they were overstated or the market  
3 believed in the official statements at the time  
4 that the bank was completely worthless or looted  
5 by a previous owner.  
6 Listen, there was too much conflicting and  
7 noise regarding the whole transaction at the  
8 time, so -- so our idea to navigate through it  
9 was focusing on the big stuff that for us were  
10 sort of certain and reliable.  
11 I want to add something to this question.  
12 Q. I don't remember what the question  
13 was.  
14 A. But I remember, so I want to finish my  
15 answer and emphasize something.  
16 At the same time, this sort of numbers  
17 we're throwing out, and even later, government  
18 officials, high-ranking government officials,  
19 were talking about an illiquidity problem, and  
20 illiquidity has nothing to do with insolvency.  
21 Q. I was --  
22 A. You can be illiquid and very solvent,  
23 or insolvent and illiquid.  
24 So -- so this statements added to the pool  
25 of -- of information that was provided by the

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1 CONFIDENTIAL -- Claudio Khamis  
2 government that didn't make any sense one time.  
3 (Whereupon, Khamis Exhibit  
4 Number 30, email, was marked for  
5 identification as of this date.)  
6 Q. Exhibit 30, Mr. Khamis, is an email  
7 from Igal Yacher to you. It appears you  
8 forwarded it to yourself. This is from October  
9 of 2011, and it's forwarding a report from  
10 Bloomberg on BTA.  
11 Do you see that?  
12 A. This is Mr. Yacher sending something  
13 to me that I forwarded, you said?  
14 Q. Mr. Yacher, I'll just tell you, it's  
15 an email from Mr. Yacher to you. Let's start  
16 with that premise, and it's entitled Kazakh  
17 wealth fund certainly ready to support BTA.  
18 Do you recall receiving this in October  
19 2011?  
20 A. Yeah.  
21 Q. Did you read it when you received it?  
22 A. Yeah, I read it when I received it.  
23 Q. What was your reaction to this report?  
24 A. Let me reread it to try to make an  
25 assessment as to what my reaction could have



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1 CONFIDENTIAL -- Claudio Khamis  
2 been.  
3 (Whereupon, the Witness complied  
4 with the request.)  
5 (Whereupon, Khamis Exhibit  
6 Number 31, email, was marked for  
7 identification as of this date.)  
8 A. What was your question regarding this?  
9 Q. Did you read it when you received it?  
10 A. Yes.  
11 Q. And what was your reaction?  
12 A. The reaction was that it was a  
13 positive reaction, because it was consistent  
14 with -- with SK engaging in supporting the bank.  
15 SK was the shareholder of the bank, the majority  
16 shareholder of the bank, and we assumed it was  
17 the biggest loser if something was to happen to  
18 the equity, and subordinated debt is preferable  
19 to equity, so -- so it was consistent with other  
20 statements also that we saw regarding --  
21 regarding support, if needed.  
22 But it still didn't have a reasonable  
23 explanation for the capital shortfall that it  
24 mentions here, so we were looking at okay, they  
25 are willing to support, consistent, but the

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1 CONFIDENTIAL -- Claudio Khamis  
2 capital shortfall doesn't still explain.  
3 And it could have been perfectly because  
4 good quality assets were not recovered yet or  
5 were in the process of being recovered. It  
6 could have been due to many different things  
7 So -- so one more time, here is the capital  
8 shortfall, and then you see, probably around the  
9 same time another person is talking about the  
10 illiquidity, and then you have a restructuring,  
11 massive undertaking just one year earlier.  
12 So who do you believe more? How do you  
13 give weight? And there are very few things  
14 which you could give weight, and we gave weight  
15 to what was portrayed at the time as a  
16 successful restructuring. We gave weight to the  
17 massive cut in liabilities, added up the influx  
18 of resources by the capital increase and by SK  
19 for 1.4 billion, the full faith of, I think,  
20 four billion in deposits, so this is all --  
21 But then, the question is where are the  
22 \$23 million in assets they had prior to the  
23 intervention? That was the big question. Are  
24 the recovery units restructured? Are they  
25 provisioned within the bank? Where are they?

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1 CONFIDENTIAL -- Claudio Khamis  
2 (Time noted: 5:00 p.m.)  
3 Q. There's a statement in the second  
4 paragraph:  
5 BTA Bank will certainly be supported by the  
6 government, Kulibayev said today in an interview  
7 in the Kazakh capital, Astana --  
8 A. Correct.  
9 Q. -- without elaborating.  
10 Do you believe Mr. Kulibayev made a false  
11 misrepresentation in that statement?  
12 A. As to what ended up happening?  
13 Q. No.  
14 At the time he made the statement, do you  
15 believe he was making a false misrepresentation?  
16 MR. BLOOR: Objection.  
17 A. To -- to evaluation their  
18 representation that he made, you can only  
19 evaluate -- at the time we saw the  
20 representation, we saw it as a representation as  
21 what he said. Nothing else as an intention.  
22 Will, certainly, be supported in the future.  
23 This is interpretation.  
24 But in hindsight, I think it was not a  
25 correct representation.

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1 CONFIDENTIAL -- Claudio Khamis  
2 Q. I'm sorry, another?  
3 A. It was not a correct representation.  
4 Q. Do you think he was trying to mislead  
5 the public in this statement?  
6 A. I'm not going to say what he was  
7 trying to do with that particular statement, but  
8 I -- the information that was provided certainly  
9 misled, at least, my decision-making process.  
10 Q. You understand this is statement you  
11 allege as a misrepresentation in the amended  
12 complaint? Your lawyers --  
13 A. Yeah, because we wrote this -- we  
14 alleged fraud, and to come to the conclusion it  
15 was fraud is because we saw this piece and a lot  
16 of other pieces of statements done by government  
17 officials that turned out not to be true.  
18 Q. Did you buy any more bonds of BTA Bank  
19 in 2011, after June of 2011?  
20 A. I don't have the timeline in my head  
21 But I had bought bonds for consistently as  
22 they were going down, because what was -- for  
23 two essential reasons.  
24 First of all, nothing of the  
25 inconsistencies still are explained, and which



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1 CONFIDENTIAL -- Claudio Khamis  
2 means that nobody still is giving an explanation  
3 where the capital shortfall is coming from  
4 Even the government of Kazakhstan, through its  
5 agency's provision, and not just provision, cut  
6 liabilities, inject the capital, and there was a  
7 big portfolio of loans that was besides  
8 related-party loans that I understand was around  
9 four billion.  
10 But it was not half of the totality of the  
11 23 billion or 21 billion that was compressed.  
12 So we didn't have an explanation for that.  
13 I got lost, what was the --  
14 Q. Let me rephrase, and let me make sure  
15 the record is clear, because the records that  
16 you produced show that you did not purchase any  
17 BTA bonds after June of 2011 until 2012,  
18 February of 2012  
19 Is that consistent with your memory, that  
20 you didn't buy any bonds in the second half of  
21 2011?  
22 MR. BLOOR: Objection.  
23 A. I don't -- I don't have a clear  
24 recollection of my purchases. I don't have a  
25 clear recollection.

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1 CONFIDENTIAL -- Claudio Khamis  
2 I remember that I bought bonds during a  
3 significant period, but I don't recall exactly.  
4 Q. Pull out the complaint, if you still  
5 have that. It's Exhibit 24, from the pile.  
6 MR. BLOOR: In the pile, Exhibit 24.  
7 THE WITNESS: Here's the complaint,  
8 in this pile? 24?  
9 MR. WALSH: Let's make it easy.  
10 Q. This is a chart of the purchases the  
11 plaintiffs in this case made of BTA subordinated  
12 bonds.  
13 Does this refresh your recollection that  
14 there were no purchases by Atlantica or Baltica  
15 or Blu Funds --  
16 A. For the rest of 2011?  
17 Q. In 2011 there are only sales.  
18 A. What are the sales? The ones that  
19 were exchanged with recoveries?  
20 Q. Exactly.  
21 A. Yeah, that's consistent. Yes.  
22 Q. The next purchase by any of the funds  
23 was in February of 2012.  
24 A. This was right after the terms of the  
25 second restructuring, yes?

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1 CONFIDENTIAL -- Claudio Khamis  
2 Q. And you understood by that time that  
3 there was a second restructuring?  
4 A. Sure, sure.  
5 Q. This is --  
6 A. You don't want to know the reason for  
7 these purchases?  
8 Q. We'll get to them in an hour,  
9 depending --  
10 Here's 31.  
11 A. You are make simple questions, you get  
12 simple answers.  
13 Q. We're trying.  
14 A. When is that?  
15 Q. So this is Exhibit 31. It's an email  
16 from Richard Maser.  
17 A. Yeah, he works at UBS.  
18 Q. Yes, to you. Mr. Kiblsky forwarded  
19 it to you.  
20 Do you see that?  
21 A. Yeah, yes, from Troika.  
22 Q. Who is that?  
23 A. He's an analyst at Troika.  
24 Q. Did you ever talk to Mr. Bulgakov?  
25 A. No.

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1 CONFIDENTIAL -- Claudio Khamis  
2 Q. Did you ever talk to anyone at Troika  
3 about BTA?  
4 A. Not that I recall. I don't recall  
5 talking to Bulgakov.  
6 Q. Do you recall receiving this email?  
7 A. I recall reading Bulgakov emails. I  
8 don't rule out having been in a conference call  
9 with some analyst, but I could -- it would be  
10 very hard for me to confirm it or say -- I very  
11 rarely get into -- into conference calls with  
12 analysts, but this -- he was the Troika reports.  
13 Q. Did you read the whole report when you  
14 received it in October of 2011?  
15 A. This one?  
16 Q. Yes.  
17 A. The whole report that it's referencing  
18 here, or the whole email?  
19 Q. The whole email.  
20 (Whereupon, the Witness complied  
21 with the request.)  
22 Q. Do you want the question back?  
23 A. I'm remembering as I read, so there's  
24 stuff I don't recall.  
25 Q. Did you read the whole email when you

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1 CONFIDENTIAL -- Claudio Khamis  
2 received it?  
3 A. Yeah.  
4 Q. If you turn to the page, second to  
5 last page, 3041, do you see item six, the bottom  
6 of the page?  
7 A. Yes.  
8 Q. And this is where Troika is going  
9 through the probability of outcomes.  
10 Do you see that?  
11 A. Yeah.  
12 Q. One of the probabilities is  
13 liquidation?  
14 A. Yes.  
15 Q. Estimated zero to one percent?  
16 A. Yeah.  
17 Q. Second outcome is second  
18 restructuring --  
19 A. Yes, I see.  
20 Q. Troika has estimated 20 to 30 percent?  
21 A. Yes.  
22 Q. And the third option is delay the  
23 decision.  
24 A. Yes.  
25 Q. They talk about the negative carry

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1 CONFIDENTIAL -- Claudio Khamis  
2 And the liquidation was -- sorry,  
3 inexistent, and a second restructuring, 20 to  
4 30 percent, and the --  
5 The reaction to it was okay, what is  
6 restructuring? Restructuring is necessarily  
7 massive haircuts -- not necessarily, but we just  
8 had massive haircuts and massive provisioning  
9 and massive cut of liabilities one year before  
10 or so.  
11 A restructuring is, in its significance, a  
12 change in the structure and a change in the  
13 structure could have taken many forms. One of  
14 the forms, if the problem was as stated by  
15 government officials, illiquidity, it was still  
16 mentioned more than one time. Illiquidity until  
17 loans can get recovered, so the capital  
18 shortfall claimed is closed, since probably  
19 there was still some instability or volatility  
20 in the assessment of the assets.  
21 If that was the case, that illiquidity was  
22 the issue, paying, decreasing the amount of  
23 coupon to one percent for a number of years was  
24 one of the ways, that I thought at the time  
25 could be one of the ways, maybe decrease the

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1 CONFIDENTIAL -- Claudio Khamis  
2 swap being softened. The outcome there is 50 to  
3 60 percent.  
4 And then finally, the final outcome the  
5 estimate is full and ultimate government  
6 support, large scale bond back, full negative  
7 carry swap, full-fledged restructuring of  
8 operations and, they've estimate 20 to 30  
9 percent.  
10 Did you have --  
11 A. Excuse me, you're reading the 50 to  
12 60 percent? Where were you?  
13 Q. The 50 to 60 is the delay in the  
14 decision.  
15 I'm going to ask, Mr. Khamis, did you read  
16 this section when you got the email, and if you  
17 did read it, what was your reaction?  
18 A. I don't recall exactly what the  
19 reaction of it was at the moment, but  
20 liquidation was almost nonexistent.  
21 A second restructuring attempt, 20 to  
22 30 percent -- actually, yes. When I remember  
23 looking at that playing with the percentages,  
24 and basically it's delay in the decision was  
25 more than 50 percent.

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1 CONFIDENTIAL -- Claudio Khamis  
2 coupons for several years and then have a step  
3 up until recoveries are made or a very good  
4 assessment.  
5 Because when a loan portfolio is hit, and  
6 this is very relevant, your assessment on  
7 recoveries may be overestimated in some cases  
8 and underestimated for other classes. If the  
9 price of gold was bad at the time, probably you  
10 say the credit is very unlikely to get paid, or  
11 if the price of gold is 18 months later up  
12 significantly, the whole cash flow of the  
13 creditors changes and you may have a surprise.  
14 So it's in the end, it's addressed properly  
15 like it was addressed in most of the world,  
16 especially in the US or in Europe. People  
17 waited, and then they made the final assessment,  
18 and if capital was needed, then you make the  
19 adjustment.  
20 But another form of restructuring that was  
21 available was the conversion of debt for equity,  
22 so you have to do a lot of exercises when you're  
23 looking into restructuring to see how you can  
24 improve the financial condition of the bank.  
25 And all of this, again, was under a very

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1 CONFIDENTIAL -- Claudio Khamis  
2 complex scenario, in which all was claiming to  
3 be the situation was inconsistent with this job  
4 thoroughly done, where hundreds of millions were  
5 spent in top quality advisors from all across  
6 the world. Lazard was involved. UBS was  
7 involved. How could bankers get it so wrong?  
8 So -- so the likelihood of that, at the  
9 time I was looking at this, was -- was nobody  
10 still can explain what is going on, and the fact  
11 that they are delaying it with a 50 to  
12 60 percent probability pointed out and was  
13 consistent with this, okay, let's give it more  
14 air. Here it's portrayed as okay, you have more  
15 half a year.  
16 And this could be, have been because of  
17 lacking of how financial system works. This was  
18 as communist country not that long ago. Without  
19 free financial markets and banking, it's a  
20 different story, so -- so making the assessment  
21 about what was going on at the time, it was very  
22 difficult.  
23 Q. Let me show you Exhibit 31 from  
24 Mr. Kiblsky's deposition. This is an email  
25 from Yacher to you and Mr. Kiblsky, dated

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1 CONFIDENTIAL -- Claudio Khamis  
2 November 8, 2011, and attached is a UBS report  
3 that BTA will not make payment on recovery units  
4 for third quarter 2011.  
5 Did you get this email?  
6 A. Yes, sure.  
7 Q. Did you read the email when you  
8 received it?  
9 A. Yes, I read it.  
10 MR. BLOOR: Can we take a quick  
11 break?  
12 MR. WALSH: Sure.  
13 THE VIDEOGRAPHER: The time is 5:21.  
14 We are going off the record.  
15 (Whereupon, a brief recess was  
16 taken.)  
17 (Whereupon, Khamis Exhibit  
18 Number 32, email, was marked for  
19 identification as of this date.)  
20 THE VIDEOGRAPHER: The time is  
21 5:28 p.m. We are back on the record.  
22 Q. Mr. Khamis, I've shown you Exhibit 32.  
23 This is email from Matthew Poe again to you.  
24 It's dated November 11, 2011.  
25 Do you recall receiving this email in that

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1 CONFIDENTIAL -- Claudio Khamis  
2 time period?  
3 A. Yes.  
4 Q. And do you see that Mr. Poe is  
5 exchanging emails with Andre Marcov at  
6 Renaissance Capital?  
7 Who is Andre Marcov?  
8 A. I don't know.  
9 Q. Do you see that Mr. Poe asks  
10 Mr. Marcov, right at the bottom of the first  
11 page there:  
12 Andre, how are you? Is BTA still losing  
13 almost a billion a year in operations? Would  
14 you expect a zero recovery on the 2025 bonds in  
15 the event of default? How long can these guys  
16 keep going before defaulting?  
17 Do you recall reading that part when you  
18 received this?  
19 A. Excuse me?  
20 Q. Do you recall reading that part of the  
21 email when you received this email?  
22 A. I don't recall the email itself, but  
23 I'm sure I received it.  
24 Q. And did you have any discussions with  
25 Mr. Poe about the potential of a zero recovery

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1 CONFIDENTIAL -- Claudio Khamis  
2 on the 2025 bonds?  
3 A. No. I didn't have much engagement at  
4 the time with Mr. Poe.  
5 Q. What about Mr. Izzo?  
6 A. No. With Mr. Izzo, I wouldn't discuss  
7 this with Mr. Izzo in depth.  
8 (Whereupon, Khamis Exhibit  
9 Number 33, email, was marked for  
10 identification as of this date.)  
11 Q. This is Exhibit 33, Mr. Khamis. It's  
12 an email from Mr. Izzo to you, forwarding an  
13 update on BTA. It's dated December 22nd, 2011.  
14 Do you recall receiving this email in  
15 December of 2011?  
16 A. The source of this email is Poe?  
17 Q. It appears Mr. Poe is forwarding you  
18 an email from a Bloomberg report, and this is a  
19 document you produced to us.  
20 A. What is your question?  
21 Q. Do you recall receiving this?  
22 A. Yes, yes.  
23 Q. And you see that's a, there's an  
24 attachment to the email.  
25 A. Where? There's a reference --

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1 CONFIDENTIAL -- Claudio Khamis  
2 This is attachment?  
3 Q. We'll fix it during the break  
4 But you can see the attachments, which you  
5 produced to us, were the press release that's  
6 referenced in the email. Turn to the last page,  
7 you'll see the press release.  
8 A. Correct.  
9 Q. So BTA had announced that there would  
10 be a second restructuring?  
11 A. Yes.  
12 Q. What was your reaction to that?  
13 A. My reaction to that was that a  
14 restructuring is a very -- term and we just came  
15 out of a massive restructuring, very well  
16 advised, and that another restructuring will  
17 happen that should correct whatever needs to be  
18 corrected, maybe liquidity. We just didn't  
19 know.  
20 As I said, analysis was hard at the time.  
21 MR. WALSH: Let me mark another  
22 exhibit.  
23 (Whereupon, Khamis Exhibit  
24 Number 34, email, was marked for  
25 identification as of this date.)

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1 CONFIDENTIAL -- Claudio Khamis  
2 Q. Exhibit 34 is an email from you,  
3 Mr. Khamis, to Matthew Poe. You write [in  
4 Spanish].  
5 Do you see that?  
6 A. Yeah.  
7 Q. What does that mean in English?  
8 A. You want me to translate it for you?  
9 Q. Please.  
10 A. Hi Matthew, what do you think? Is it  
11 crazy to buy, to add more to 9 to 950?  
12 Q. What were you telling Mr. Poe here?  
13 A. I don't know.  
14 Q. Were you thinking about buying more of  
15 the bonds?  
16 A. It could have been recovery units or  
17 bonds. I don't know what I was looking at the  
18 time.  
19 Q. This is after the announcement that  
20 there would be a second restructuring.  
21 Were you considering buying more  
22 subordinated bonds after the announcement of the  
23 second restructuring?  
24 A. I was looking to buy more. I don't  
25 know if that's recovery units or bonds. It's

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1 CONFIDENTIAL -- Claudio Khamis  
2 not clear to me from that email what I was  
3 referring to.  
4 MR. WALSH: This will be 35.  
5 (Whereupon, Khamis Exhibit  
6 Number 35, email, was marked for  
7 identification as of this date.)  
8 Q. Exhibit 35, Mr. Khamis, is an email  
9 that you produced to us from you and Mr. Izzo.  
10 It's an exchange of emails.  
11 Mr. Izzo has forwarded you a Debtwire  
12 story, it appears, and do you see in the middle  
13 of the page, he writes [in Spanish]?  
14 Do you see that sentence?  
15 A. Yeah.  
16 Q. Can you translate that, please?  
17 A. I resent to you an email that was sent  
18 Rostyslav Orach from Troika New York, with whom  
19 I talked this morning.  
20 Q. And you write back [in Spanish].  
21 Good summary?  
22 A. Yeah.  
23 Q. Did you think about buying more  
24 subordinated notes at this time period?  
25 A. I don't know what I was thinking at

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1 CONFIDENTIAL -- Claudio Khamis  
2 this time period.  
3 To know what I know, it's important to see  
4 what I did after that, because I don't have the  
5 recollection of my purchases.  
6 Q. But by this time, you knew there was  
7 going to be a second restructuring.  
8 A. If the second restructuring was  
9 announced by the formal web page announcement,  
10 as you just showed me, sure.  
11 Q. Well, somebody forwarded you, the  
12 people at Vision forwarded you the press  
13 release, right, that there would be a second  
14 restructuring?  
15 A. Right.  
16 (Whereupon, Khamis Exhibit  
17 Number 36, email, was marked for  
18 identification as of this date.)  
19 Q. Exhibit 36, Mr. Khamis, is an email  
20 that appears to be from you. It's not clear  
21 from -- well, according to the electronic data  
22 that was associated with this, it's an email  
23 from you to Igal Yacher at UBS.  
24 Do you recall sending an email on  
25 January 21st, 2012, to Mr. Yacher at UBS?

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1 CONFIDENTIAL -- Claudio Khamis  
2 A. I don't recall, but if I sent it, I  
3 sent it, and if it was produce to you was  
4 because I sent it.  
5 Q. Did you have any discussions with UBS  
6 about BTA in this time period?  
7 A. I don't have any recollections of  
8 specific discussions with.  
9 (Whereupon, Khamis Exhibit  
10 Number 37, email, was marked for  
11 identification as of this date.)  
12 Q. Mr. Khamis, Exhibit 37 is an email  
13 from Mr. Izzo to you that you produced in the  
14 case. It's dated January 12, 2012, and it's  
15 entitled BTA '25 offer of six percent to  
16 Goldman, 5.5 to Barclays, Smith Barney, [in  
17 Spanish].  
18 What does that mean in English?  
19 A. The subject, you want me to translate?  
20 Q. Yes, please.  
21 A. BTA '25 offer six percent from  
22 Goldman, five percent from Barclays, and Smith  
23 Barney didn't give us indicative -- no, no. It  
24 did give us indicative five percent. Nobody  
25 else gave us a price.

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1 CONFIDENTIAL -- Claudio Khamis  
2 Q. Were you emailing Mr. Izzo at this  
3 time period to find out what the market price  
4 was for the subordinated notes?  
5 A. If I was emailing him?  
6 Q. Right. This is an email asking him  
7 for information about prices?  
8 A. I eventually called him or he sent it  
9 to me.  
10 Q. And he responded?  
11 A. But again, Izzo and Poe would send me  
12 information on my request, and many times, most  
13 of the times, without my request.  
14 Q. Did you, at one point, establish a  
15 brokerage accounts with Vision?  
16 A. Define the time.  
17 Q. This is the beginning of 2012,  
18 January 2012.  
19 A. For the plaintiffs or --  
20 Q. For Atlantica, Baltica, and Blu?  
21 A. No. I don't recall.  
22 Q. Did you have any other accounts with  
23 Vision?  
24 A. In January of 2012?  
25 Q. In January of 2012.

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1 CONFIDENTIAL -- Claudio Khamis  
2 A. I don't recall. It doesn't seem . . .  
3 (Whereupon, Khamis Exhibit  
4 Number 38, email, was marked for  
5 identification as of this date.)  
6 A. You are always talking about the  
7 plaintiffs; correct?  
8 Q. Correct.  
9 Exhibit 38 is an email from you to  
10 Mr. Izzo.  
11 Can you read that to us in English?  
12 A. Yeah.  
13 Claudio -- I don't know how to translate --  
14 to execute purchases BTA.  
15 Q. Call me?  
16 A. Call me.  
17 Q. So did you make a decision to buy more  
18 subordinated notes in February of 2012?  
19 A. In February of --  
20 Q. 2012.  
21 A. In February of 2012? I have to see  
22 the --  
23 Can you show me, again, the list of  
24 purchases?  
25 Q. I will in one second.

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1 CONFIDENTIAL -- Claudio Khamis  
2 A. I remember -- when was the date of  
3 the -- of the release of the terms of 2012  
4 restructuring? Was it prior to this date or  
5 after this date?  
6 Q. Your next purchases, as we saw in the  
7 complaint, were in February of 2012.  
8 A. When were they in terms of the second  
9 restructuring?  
10 Q. When were they fully announced?  
11 A. Yeah. When did they announce that the  
12 would pay 2.5 cents?  
13 Q. That was later.  
14 A. Later than this?  
15 Q. Yes. Let me ask my question, and  
16 we'll go back to this.  
17 Why did you purchase more BTA bonds in  
18 February of 2012?  
19 A. I don't know what the price was.  
20 There's got to be a reason of pricing and  
21 assessment --  
22 Q. We saw an email of Mr. Khamis was  
23 offering you the prices --  
24 A. Khamis is me.  
25 Q. Sorry, Mr. Izzo. Two Claudios.



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1 CONFIDENTIAL -- Claudio Khamis  
2 A. It wasn't that he was offering me  
3 instruments. It seems to me more likely that  
4 this is an information about price level and not  
5 an offer.  
6 The email states BTA '25 offer. That was  
7 the offer price.  
8 Q. I've just handed you Exhibit 25 from  
9 Mr. Kiblsky's deposition. Mr. Izzo is  
10 forwarding to you an email he had with Mr. -- of  
11 Troika.  
12 Do you see that?  
13 A. Yeah.  
14 Q. And he's attaching the Troika analyst  
15 report from January 2012.  
16 A. Correct.  
17 Q. And did you read the analyst report  
18 when you received it in February of 2012?  
19 A. Yes.  
20 Q. And if you look at page 20, there's a  
21 discussion on BTA.  
22 A. I cannot read what it say --  
23 Q. Let me ask you, when you received it,  
24 did you read these pages on BTA?  
25 A. Most likely. I'm sure I read it. If

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1 CONFIDENTIAL -- Claudio Khamis  
2 it was very long. I'm not sure if I read it  
3 all, but most likely I went through it.  
4 Q. If you go to page 29, there's a  
5 discussion called sticks and carrots.  
6 A. I remember those sticks and carrots,  
7 so it means that I got to this point.  
8 Okay. What is the question?  
9 Q. There is a discussion about the second  
10 restructuring.  
11 Do you see that?  
12 A. I have to read it.  
13 Q. Go ahead and read it, and the question  
14 I'm going to ask you is what was Troika  
15 reporting with respect to Samruk-Kazyna and the  
16 relationship with creditors in this  
17 restructuring?  
18 A. There are a lot of questions being  
19 made.  
20 Q. What are the sticks and carrots that  
21 are referred to in this report?  
22 MR. BLOOR: Objection.  
23 You can answer.  
24 A. I don't know.  
25 Q. Well, was the possibility of

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1 CONFIDENTIAL -- Claudio Khamis  
2 litigation between Samruk-Kazyna and the  
3 creditors discussed here?  
4 A. In the first three things that I  
5 read --  
6 Q. Turn to the second page Mr. Khamis.  
7 I'll make this easier for you.  
8 A. Okay.  
9 Q. You see the bottom of the page, Troika  
10 reports there are some areas where shareholders  
11 may explore?  
12 A. Where are you looking at?  
13 Q. The bottom, page 30.  
14 MR. BLOOR: You're asking about  
15 sticks and carrots. Now we're --  
16 MR. WALSH: I want to focus on  
17 page 30 now. It's all part of the same  
18 section.  
19 A. Only now? That's the paragraph you're  
20 reading?  
21 Q. Very bottom.  
22 A. Okay.  
23 Q. There's a sentence that begins there  
24 are some areas --  
25 A. Okay.

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1 CONFIDENTIAL -- Claudio Khamis  
2 Q. -- where shareholders may explore the  
3 chance for a dialogue with the bank and  
4 Samruk-Kazyna and seek a remedy or litigation.  
5 Do you see that Troika is reporting that  
6 there's a potential for litigation against  
7 Samruk-Kazyna in their report here? Do you see  
8 that's discussed?  
9 A. Yeah.  
10 Q. And one of the issues that's discussed  
11 is the accuracy of the representations made by  
12 management during the '09-2010 restructuring and  
13 after it.  
14 So you were aware, at this time period,  
15 Mr. Khamis, that Troika was, at least, reporting  
16 that creditors had claims against Samruk-Kazyna?  
17 MR. BLOOR: Objection.  
18 You can answer.  
19 Q. Potential claims.  
20 A. Well, you highlighted, it's potential  
21 claims. It's -- when the risk of confrontation,  
22 there is always possibility of litigation.  
23 If I'm right, terms of the second  
24 restructuring were not out yet at this point.  
25 Q. Let me turn back to the sticks and

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1 CONFIDENTIAL -- Claudio Khamis  
2 carrots. Troika writes:  
3 Samruk-Kazyna versus creditors. During the  
4 negotiations with creditors, the bank, or  
5 Samruk-Kazyna, representatives are likely to  
6 argue or have already argued the following.  
7 First bullet:  
8 The negative carry swap, which effectively  
9 means that the bank is not a going concern was  
10 largely a product of the mutually-agreed first  
11 restructuring scheme, and therefore, the  
12 restructured creditors should surrender part of  
13 the MPV.  
14 What did you understand Troika was saying  
15 there?  
16 MR. BLOOR: Objection.  
17 You can answer.  
18 A. I didn't understand much of what  
19 Troika was saying. Even if I read it now, I  
20 don't understand if this is going to be case  
21 position, according to Troika?  
22 Q. Was there any question in your mind by  
23 this time period that the effect of the negative  
24 carry swap was fully disclosed to the market?  
25 MR. BLOOR: Objection.

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1 CONFIDENTIAL -- Claudio Khamis  
2 You can answer.  
3 Q. As of this report, January 2012.  
4 A. Again, the negative carry swap was  
5 something that the transaction within the  
6 related parties was sucking money out of the  
7 bank, and it was a transaction that -- that  
8 contradicted the basic principal of -- of bank  
9 support or state support.  
10 So at this time, still, we were under  
11 the -- the impression that there was missing  
12 information that could explain all the  
13 contradictions so we could understand how to --  
14 how to make sense of how things were developing.  
15 Q. You knew the bank was going to  
16 restructure for a second time. You knew by this  
17 time period that the bank would have to  
18 restructure.  
19 A. Yes. It was announced.  
20 Q. But you didn't know what the terms of  
21 the restructuring would be; correct?  
22 A. Correct.  
23 Q. You knew that the information  
24 memorandum was no longer relevant to your  
25 analysis of whether to purchase more bonds?

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1 CONFIDENTIAL -- Claudio Khamis  
2 MR. BLOOR: Objection.  
3 A. That's not correct.  
4 Q. Why would the information memorandum  
5 be relevant to your purchases in 2012?  
6 A. Because the information memorandum  
7 was -- was a piece that explained a lot of what  
8 was being, had been done during the first  
9 restructuring, including the treatment of first  
10 part of the loan portfolio of the bank held  
11 under the trust deed under very strict  
12 procedures.  
13 We had, during the whole relevant period,  
14 statements from government officials talking  
15 about illiquidity, talking about support, then  
16 conflict. So who do you believe and when was  
17 the question.  
18 And this, to us, seemed an analysis,  
19 probably a good effort of analysis, but it's  
20 still an interpretation as you well read, it  
21 said representatives are likely to argue.  
22 That's a speculation.  
23 Q. You purchased and -- let me pull out  
24 the complaint  
25 Do you have the complaint there? It's

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1 CONFIDENTIAL -- Claudio Khamis  
2 Exhibit 24. Right here  
3 Now, your lawyers have alleged on behalf of  
4 Atlantica, Baltica, and Blu that the face amount  
5 of the notes had dropped to less than ten  
6 percent of its value in January 2012.  
7 Do you see that --  
8 A. Yeah.  
9 Q. And the negative carry swap was fully  
10 disclosed by then; correct?  
11 MR. BLOOR: Objection.  
12 A. Again, the transaction between  
13 government-related entities was known.  
14 What was not known is how this fit into the  
15 total restructuring and the efforts of the state  
16 to make the bank viable and a going concern.  
17 The implication of the transaction itself  
18 meant that the bank was giving money, in our  
19 view, valuable resources to escape, to get paid  
20 two percent net, while the same funds were lent  
21 by SK, and I think also the National Bank of  
22 Kazakhstan, three corporations, at much higher  
23 rates.  
24 This didn't make any sense for an ongoing  
25 concern, and the whole claim was that they fixed

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1 CONFIDENTIAL -- Claudio Khamis  
2 the bank, so -- so it was a very -- it was  
3 something that was contradicting, again, what  
4 was portrayed as a good job done by the Kazakh  
5 authorities.  
6 Q. But it wasn't a good job, was it  
7 Mr. Khamis? They had a second restructure.  
8 MR. BLOOR: Objection.  
9 A. We, our complaint is about fraud.  
10 It's not about the job. We are alleging fraud,  
11 not a job poorly done, and there are other  
12 elements to it.  
13 Q. Is it your position that Atlantica,  
14 Baltica, Blu, relied on the information  
15 memorandum when they purchased subordinated  
16 notes in 2012?  
17 MR. BLOOR: Objection.  
18 You can answer.  
19 A. For me, the massive restructuring and  
20 the job done, one more time, with the help of a  
21 lot of smart people, and the intensity and the  
22 depth of the measures taken in terms of carrying  
23 liabilities, influx of capital, didn't add up.  
24 This is a bank that just was restructured,  
25 therefore you can provision a bad loan one time.

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1 CONFIDENTIAL -- Claudio Khamis  
2 You cannot provision a bad loan two times or  
3 three times.  
4 So it was really something that we couldn't  
5 understand, that there were so many more  
6 unaccounted or over-viewed bad loans with  
7 problem, and the quality of the portfolio  
8 overlooked by so many smart people that charge  
9 very high fees.  
10 Our allegation, again, is for fraud. It's  
11 not for a job poorly done.  
12 Q. By the time that you had purchased in  
13 February 2012, Troika was already reporting that  
14 Samruk-Kazyna had made misrepresentations;  
15 right? We saw that in the Troika report.  
16 MR. BLOOR: Objection.  
17 You can answer.  
18 A. It's not clear to me to what  
19 misrepresentations Troika is referring to.  
20 Q. Troika had reported by this time  
21 period, January 2012, that there were potential  
22 claims against Samruk-Kazyna with respect to BTA  
23 Bank.  
24 Do you recall seeing that?  
25 MR. BLOOR: Objection.

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1 CONFIDENTIAL -- Claudio Khamis  
2 You can answer.  
3 A. I saw that now.  
4 The question is what claims based on what  
5 misrepresentations were the part of the  
6 creditors. I assume that when they refer to  
7 creditors, was probably creditors committee.  
8 I was a creditor as well sitting outside of  
9 Kazakhstan. I never traveled to Kazakhstan at  
10 the time. I was paying attention to the  
11 relevant information provided in a clear way by  
12 the government to try to make an assessment  
13 with, and part of the information was  
14 conflicting afterwards.  
15 Q. You purchased approximately  
16 4.6 million, on a cost basis, bonds in 2012.  
17 Why would you spend \$4.6 million on  
18 subordinated notes that would be restructured on  
19 the second restructuring?  
20 MR. BLOOR: Objection.  
21 A. Probably -- not probably.  
22 The same premise applied to the first notes  
23 I bought prior to 2010. The assessment during  
24 prior to 2010 was that the price that was  
25 marketed or was -- that the market price

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1 CONFIDENTIAL -- Claudio Khamis  
2 deviated from the intrinsic value of the  
3 securities, that the price of the bond was, had  
4 implied losses in the -- in the loan portfolio  
5 that were extremely significant, again, for a  
6 second time.  
7 We didn't think that this logic at the time  
8 plausible. This was prior to the whole story to  
9 the first restructuring, a bank that had over  
10 20 billion in assets, always the question was  
11 where were the assets? What is the treatment  
12 the accounting treatment of those assets, the  
13 recovery efforts on that assets?  
14 Q. Were you hoping that when you bought  
15 these bonds in the beginning of 2012, were you  
16 hoping that the subordinated bonds would be  
17 treated, you would have some recovery on the  
18 subordinated bonds in the second restructuring?  
19 MR. BLOOR: Objection.  
20 Q. Let me rephrase so it's a cleaner  
21 question.  
22 When you were purchasing these bonds in  
23 2012, these subordinated bonds, were you hoping  
24 that these bonds would have a recovery in the  
25 2012 restructuring?

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1 CONFIDENTIAL -- Claudio Khamis  
2 MR. BLOOR: Objection.  
3 You can answer.  
4 A. I had bought all the bonds minus bonds  
5 I bought after knowing the terms of the  
6 exchange, under the premise that the intrinsic  
7 value of the bonds was significantly higher than  
8 the market price of the bonds.  
9 This has the exception of the bonds I  
10 bought after the exchange was announced.  
11 Q. And when the exchange was announced,  
12 you understood that the subordinated bonds would  
13 receive a very small recovery.  
14 A. 2.5 cents.  
15 Q. Right. So why would you buy bonds if  
16 you knew that they were only going to recover  
17 2.5 cents?  
18 MR. BLOOR: Objection.  
19 THE WITNESS: Can I answer?  
20 A. I wasn't that familiar with law and  
21 litigation at this time, and I, when I saw this  
22 exchange, and especially when the recovery notes  
23 were taken away via an acceleration clause,  
24 mechanism, that was conflicting with the very  
25 nature of a segregated asset put under a trust

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1 CONFIDENTIAL -- Claudio Khamis  
2 deed in a foreign country, and I saw the massive  
3 haircut.  
4 I probably, this was the first time when I  
5 began to understand that the allegations or the  
6 information portrayed as a success to  
7 restructuring was -- was eventually a lie, and  
8 that the statements of high government officials  
9 was a -- was misleading, completely misleading.  
10 So I was looking into how to defend the  
11 assets so I knew that I had to engage into some  
12 legal effort, and I bought more bonds assuming a  
13 very simple rationale, which proved wrong, I  
14 think, in the end, that the more bonds I had  
15 that I deemed were valuable, or had real  
16 intrinsic value, that I could split the cost of  
17 litigation in a bigger portfolio, is to drive  
18 down the median cost per dollar of bond, to save  
19 this way.  
20 But it was done without legal advice at the  
21 time. I didn't have legal advice at the time,  
22 that I recall.  
23 Q. When did you first engage legal  
24 advice?  
25 A. I don't remember. Off the top of my

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1 CONFIDENTIAL -- Claudio Khamis  
2 head, I'm sure it's some email communication.  
3 Who keeps track of that?  
4 THE WITNESS: Can I go to the  
5 bathroom?  
6 MR. WALSH: Yes.  
7 THE VIDEOGRAPHER: The time is  
8 6:08 p.m. We are going off the record.  
9 (Whereupon, a brief recess was  
10 taken.)  
11 THE VIDEOGRAPHER: The time is  
12 6:15 p.m. We are back on the record.  
13 Q. Mr. Khamis, your lawyer said you  
14 wanted to correct a prior statement?  
15 A. It's more than correct, clarify.  
16 Can you please show me of the three  
17 entities, where are the purchases made after the  
18 terms of the exchange?  
19 Q. The terms of exchange, Mr. Khamis,  
20 were disclosed November 1st. We'll confirm  
21 that, but that's what our records show.  
22 So it looks to me that your purchases --  
23 A. Can we identify it here, I mean, with  
24 your help?  
25 MR. BLOOR: Let's just go off the

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1 CONFIDENTIAL -- Claudio Khamis  
2 record.  
3 MR. WALSH: Why don't we go off the  
4 record.  
5 THE VIDEOGRAPHER: The time is  
6 6:15 p.m. We are going off the record.  
7 (Whereupon, a discussion was held  
8 off the record.)  
9 THE VIDEOGRAPHER: The time is  
10 6:16 p.m. We are back on the record.  
11 Q. Mr. Khamis, do you want to go ahead  
12 and clarify?  
13 A. Yeah. I just wanted to clarify from  
14 your previous question.  
15 When I was referring to the purchases made  
16 under the premise that they would help me drive  
17 down the cost per dollar of bonds of litigation,  
18 so to split the litigation into a higher volume  
19 of bonds, this -- this is only for the purchases  
20 after the terms, after the terms of the  
21 exchange, in other words, after that I would --  
22 after that I knew that 2.5 cents would be paid  
23 on the subordinated note and that I lost  
24 ownership on the recovery units.  
25 Q. And those are the only --

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1 CONFIDENTIAL -- Claudio Khamis  
2 The purchases before the exchange were  
3 disclosed or in the complaint. The purchases  
4 thereafter the exchange --  
5 A. Okay. I just wanted to make that,  
6 because I don't -- I don't -- too much  
7 information, too many transactions.  
8 And this applies only to this particular  
9 purchases that I recall as little investment  
10 relative to the other previews in the amount of  
11 dollars invested in the whole -- in BTA  
12 securities.  
13 Q. Can you turn to -- thank you for the  
14 clarification.  
15 Can you turn to page 18 of the complaint?  
16 Do you see in paragraph 52 there are a  
17 number of statements alleged by BTA and SK Fund  
18 regarding a second restructuring?  
19 A. Yes.  
20 Q. And if you look at page -- sorry  
21 page 19, paragraph 54, the plaintiff entities  
22 have alleged:  
23 Defendant made these statements without any  
24 basis in fact and with actual knowledge that a  
25 second restructuring would be necessary, because

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1 CONFIDENTIAL -- Claudio Khamis  
2 due, in part, to the deleterious cash flow  
3 impact of the negative carry swap, BTA Bank was  
4 unable to continue as a going concern or to  
5 satisfy its debt obligations, and SK funds, in  
6 fact, had no intent to provide the financing  
7 necessary for BTA Bank to survive.  
8 Now, your purchases that we were just  
9 looking at on 2012, they were all after the  
10 second restructure was announced; right? We  
11 talked about that.  
12 A. Excuse me?  
13 MR. BLOOR: Which specific  
14 purchases?  
15 Q. So if you look at your Exhibit A,  
16 Atlantica and Blu Funds, all purchased  
17 subordinated bonds after the second  
18 restructuring was announced.  
19 MR. BLOOR: Objection.  
20 Q. It's either true or false  
21 We looked at the December announcement that  
22 the bank was going to restructure --  
23 A. When was the bank going to -- when was  
24 the announcement that the bank --  
25 Q. Feel free to look at the earlier

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1 CONFIDENTIAL -- Claudio Khamis  
2 exhibits, but there was an announcement in  
3 December that there was going to be a second  
4 restructuring.  
5 MR. BLOOR: Objection.  
6 You can answer.  
7 A. I don't understand the question.  
8 When you talk about the announcement, are  
9 you talking about the shareholders meeting or  
10 are you talking about --  
11 MR. BLOOR: He'll clarify.  
12 THE WITNESS: Okay.  
13 Q. Do you have --  
14 The very top one, Exhibit 33.  
15 December 22nd, the bank announced a second  
16 restructuring.  
17 A. December 20th?  
18 Q. Do you see the date of the exhibit?  
19 A. It's from December 22nd is the email.  
20 Q. If you look at the bottom, it  
21 discloses the bank was going to have a second  
22 restructure.  
23 A. Yes. This is December 22nd, 2011.  
24 Q. You were aware that the bank would  
25 have to restructure a second time before you

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1 CONFIDENTIAL -- Claudio Khamis  
2 made the purchases for Atlantica and Baltica in  
3 2012?  
4 A. This is correct.  
5 Q. And you did not rely on any of the  
6 statements or --  
7 You did not rely on any of the statements  
8 in the complaint, paragraph 52, when you  
9 purchased in 2012?  
10 MR. BLOOR: Objection.  
11 Q. Let me ask a more straightforward  
12 question  
13 You allege in the complaint that SK Fund  
14 and BTA Bank made false and misleading  
15 statements about the potential for a  
16 restructuring.  
17 When was the first time that you knew that  
18 there would be a second restructuring?  
19 A. Probably at the time of this -- of  
20 this email  
21 Q. Which was before you purchased the  
22 Atlantica and Baltica -- Atlantica and Blu Fund  
23 purchases in 2012; correct?  
24 A. That's -- that's -- excuse me.  
25 Can you repeat the question?



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1 CONFIDENTIAL -- Claudio Khamis  
 2 Q. You knew --  
 3 A. That was the second restructuring  
 4 undergoing?  
 5 Q. Yes.  
 6 A. Yes.  
 7 Q. And that these statements were  
 8 inaccurate, the statements in paragraph 52,  
 9 because, in fact --  
 10 A. No. I didn't know that they were  
 11 inaccurate at the time, because some of  
 12 statements said that they won't default. Some  
 13 of the statements spoke about illiquidity.  
 14 Q. Can you turn back to the complaint?  
 15 Identify the ones that you thought were not  
 16 fully disclosed at the time you purchased in  
 17 2012. Paragraph 52, so there's a number of  
 18 statements there. If you could help me  
 19 understand what statements --  
 20 A. Okay. I have to read them, because I  
 21 don't remember --  
 22 Q. -- were not fully disclosed by the  
 23 time you purchased in 2012?  
 24 MR. BLOOR: Objection.  
 25 A. There were more statements than the

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1 CONFIDENTIAL -- Claudio Khamis  
 2 one put in page -- in paragraph 52.  
 3 Q. What statements?  
 4 A. I don't have them available here, but  
 5 there were other statements made about state  
 6 support, about referring it as illiquidity, and  
 7 that if the bank needed resources they will get  
 8 resources  
 9 A second restructuring, as I mentioned,  
 10 doesn't mean haircuts, doesn't mean bankruptcy  
 11 as a restructuring. There are many companies  
 12 that restructure debt without going into  
 13 bankruptcy.  
 14 Q. You understand that the complaint was  
 15 amended after it was filed in 2012?  
 16 A. Yes.  
 17 Q. This complaint, in fact, is from April  
 18 of 2013.  
 19 Did you include any of these other  
 20 statements? Did you ask Mr. Jaffe to include  
 21 any of these other statements you just  
 22 referred to --  
 23 MR. BLOOR: I object. Objection.  
 24 I'm going to instruct him not an  
 25 answer. He's not going to tell you what

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1 CONFIDENTIAL -- Claudio Khamis  
 2 he asked his lawyer to do.  
 3 Q. Do you understand that the complaints  
 4 has to set forth all of the statements that  
 5 Atlantica, Baltica, and Blu Funds relied upon in  
 6 making investment decisions?  
 7 MR. BLOOR: Objection.  
 8 A. I'm not a lawyer. I don't know how  
 9 you put a complaint.  
 10 And I know what I was relying on until the  
 11 very end, and it was about a job well done, and  
 12 massive provisions were done during the first  
 13 restructuring with the oversight of a lot of  
 14 talented people that have massive, spent half a  
 15 million hours, reviewing documents and credits  
 16 and a lot of stuff --  
 17 Q. Did you, at any point, tell  
 18 Mr. Jaffe --  
 19 A. Excuse me. Let me finish the -- the  
 20 answer.  
 21 The announcement of a second restructuring  
 22 could have pointed to a lot of different  
 23 factors, lack in the speed of recovery,  
 24 illiquidity, and many other unknowns, like the  
 25 necessity of correcting the government sucking

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1 CONFIDENTIAL -- Claudio Khamis  
 2 away resources from the bank for unknown reason.  
 3 It's not what you try to imply, Mr. Walsh.  
 4 Q. You had an opportunity, the  
 5 plaintiffs, to amend the complaint in 2013, and  
 6 you did it amend the complaint. You see this,  
 7 the amended complaint was filed.  
 8 Did you ever go to Mr. Jaffe and say I have  
 9 other allegations that I want to allege against  
 10 SK Fund, I want to amend the complaint a second  
 11 time?  
 12 MR. BLOOR: Objection. Don't answer  
 13 that.  
 14 Q. Do you follow your lawyer's  
 15 instruction not to answer?  
 16 A. Yeah.  
 17 Q. Mr. Khamis, you met my partner Joe  
 18 Pizzurro?  
 19 A. Yes.  
 20 Q. And you also met my colleague, Kevin  
 21 Meehan, another lawyer from Curtis?  
 22 A. Yes. I don't remember the lawyer, but  
 23 I remember meeting with Mr. Pizzurro.  
 24 Q. It was here in New York?  
 25 A. Yes.

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1 CONFIDENTIAL -- Claudio Khamis  
2 Q. And other lawyers for BTA Bank were at  
3 the meeting?  
4 A. There were a lot of lawyers. I don't  
5 recall who was from -- from --  
6 Q. And during that meeting, you raised  
7 the issue of Tristan Oil.  
8 What is Tristan Oil?  
9 A. Tristan Oil is an oil company that was  
10 expropriated after -- after Mr. Anatol Stati got  
11 a requirement to seat -- seat transfer -- how do  
12 you say --  
13 MR. BLOOR: Just, are we talking  
14 about a settlement meeting?  
15 MR. WALSH: I don't think so.  
16 I'm only going to ask about Tristan  
17 Oil. That's all I'm going to ask him.  
18 MR. BLOOR: Well, you said, talking  
19 about some sort of meeting --  
20 MR. WALSH: I don't think this was a  
21 settlement meeting. If you want to  
22 dispute this --  
23 MR. BLOOR: I don't know. I wasn't  
24 there.  
25 MR. WALSH: He brought up another

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1 CONFIDENTIAL -- Claudio Khamis  
2 matter. I'm not going to ask about  
3 discussions about BTA. I'm only asking  
4 about Tristan Oil.  
5 Q. Mr. Khamis, what did you tell my  
6 partner Joe Pizzurro about Tristan Oil during  
7 that meeting?  
8 A. I don't recall specifics of what I  
9 talked about Tristan Oil in that meeting.  
10 Tristan Oil was another investment that I  
11 had in Kazakh that was expropriated by the  
12 Kazakh government.  
13 Q. How much in Tristan Oil bonds did you  
14 hold in this time period?  
15 By the way, the meeting was in September of  
16 last year.  
17 So as of September last year, how much --  
18 A. 50 million.  
19 Q. You had \$50 million in Tristan Oil  
20 bonds?  
21 A. Yeah.  
22 Q. Five-zero?  
23 A. 50 million.  
24 Q. And what are they worth right now?  
25 A. I don't know.

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1 CONFIDENTIAL -- Claudio Khamis  
2 Q. Are they worth anything?  
3 A. I don't know what the demand is. Last  
4 what I heard that they traded was traded at  
5 \$0.30.  
6 Q. So do you recall what range you bought  
7 the bonds, what they were trading at when you  
8 bought them?  
9 A. Higher than that.  
10 Q. And do you know what your on-paper  
11 losses are for Tristan Oil right now?  
12 A. On Tristan Oil there are no paper  
13 losses. We were waiting to collect --  
14 We won in the arbitration in Sweden, and we  
15 won the appeals in Sweden, and since the Kazakh  
16 government refuses to comply by the court  
17 rulings, we are trying to enforce collection.  
18 Q. When you say we, who are you referring  
19 to?  
20 A. This is a plural. This is all the  
21 people that are involved as creditors in Tristan  
22 Oil.  
23 Q. Have you met Mr. Stati?  
24 A. Yes.  
25 Q. When did you meet him?

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1 CONFIDENTIAL -- Claudio Khamis  
2 A. I don't recall.  
3 Q. Was it this year?  
4 A. No.  
5 Q. Was it last year?  
6 A. Probably earlier.  
7 Q. And when did you meet him -- I'm  
8 sorry.  
9 Where did you meet him?  
10 A. I met in him in Europe.  
11 Q. Where in Europe?  
12 A. I met him in Spain.  
13 Q. And was he --  
14 Tell me what you talked about with  
15 Mr. Stati?  
16 MR. BLOOR: Just --  
17 A. I don't recall what I talked about.  
18 MR. BLOOR: Wait a minute.  
19 Before we go on, I mean, I need to  
20 know who you're talking about. I don't  
21 represent him in that matter, so I don't  
22 know if he's a lawyer.  
23 Q. Can you tell me who Antonio Stati  
24 is -- Antonin Stati --  
25 Who is he is to Tristan Oil?

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1 CONFIDENTIAL -- Claudio Khamis  
2 A. Antoni Stati?  
3 Q. Mr. Stati. What is Mr. Stati's first  
4 name?  
5 A. Anatol.  
6 Q. My apologies for mispronunciation.  
7 And what was Mr. Stati's relationship to  
8 Tristan Oil?  
9 A. He was the former owner.  
10 Q. And what happened to Tristan Oil?  
11 A. Was expropriated.  
12 Q. And did Mr. Stati bring an arbitration  
13 against the government of Kazakhstan?  
14 A. That's my understanding.  
15 Q. When did you purchase the Tristan Oil  
16 bonds, before or after that arbitration?  
17 A. No. Prior to the arbitration.  
18 Q. And were you aware that the government  
19 of Kazakhstan, as you say, expropriated the  
20 Tristan Oil assets?  
21 A. At the time I bought the first time?  
22 Q. Yes.  
23 A. No.  
24 Q. So you bought, and then the  
25 government, as you say, expropriated Tristan

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1 CONFIDENTIAL -- Claudio Khamis  
2 Oil?  
3 A. Correct. One more time the Kazakh  
4 government.  
5 Q. And have you been involved in the  
6 arbitration between Mr. Stati and the  
7 government?  
8 A. No.  
9 We have a sharing agreement with Mr. Stati.  
10 I'm not familiar with the legal stuff. As  
11 I said, I'm not a lawyer, but creditors have a  
12 sharing agreement with Mr. Stati.  
13 Q. And would you be able to provide that  
14 sharing agreement with me?  
15 A. Excuse me?  
16 Q. Would you give me that sharing  
17 agreement?  
18 A. I'm not sure if I have it.  
19 Q. And what does it provide?  
20 MR. BLOOR: Objection.  
21 A. I don't have a close recollection.  
22 The thing I know is that we got 70 percent  
23 from recoveries after a waterfall, and I don't  
24 know the details of the waterfall.  
25 Q. And are you financing Mr. Stati's

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1 CONFIDENTIAL -- Claudio Khamis  
2 litigation?  
3 MR. BLOOR: Objection. Objection  
4 I think we need to go off the record. I  
5 need to understand better what this  
6 relationship is, if there are any  
7 privileges here.  
8 MR. WALSH: Shouldn't be. He  
9 brought it up with my partner.  
10 MR. BLOOR: We're going to go off  
11 the record.  
12 THE VIDEOGRAPHER: The time is 6:32.  
13 We are going off the record.  
14 (Whereupon, a discussion was held  
15 off the record.)  
16 THE VIDEOGRAPHER: The time is 6:41  
17 p.m. We are back on the record.  
18 MR. BLOOR: I've had an opportunity  
19 to confer with my client.  
20 In terms of this sharing agreement,  
21 he doesn't know what his obligations are  
22 under that agreement, whether there are  
23 any confidentiality obligations, so I'm  
24 not going to -- until I have the  
25 opportunity to review the agreement, I'm

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1 CONFIDENTIAL -- Claudio Khamis  
2 not going to let him answer any questions  
3 about the specifics of the agreement.  
4 You know, otherwise -- you know,  
5 from our perspective, this is a bit far  
6 afield from the 30(b)(6) notices and,  
7 otherwise, relevancy to the litigation  
8 itself.  
9 To the extent you have some  
10 additional questions, you can ask him and  
11 we'll take it question by question.  
12 Q. Mr. Khamis, are you hoping to settle  
13 the Tristan Oil case and the BTA case together?  
14 MR. BLOOR: Objection.  
15 You can answer.  
16 A. I would -- I would love to have a  
17 direct communications with the -- with the  
18 people in charge --  
19 MR. BLOOR: Can you read back that  
20 request, again, please?  
21 (Whereupon, the requested question  
22 was read back by the reporter:  
23 Question. Mr. Khamis, are you  
24 hoping to settle the Tristan Oil case and  
25 the BTA case together? )

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1 CONFIDENTIAL -- Claudio Khamis  
2 MR. BLOOR: I'm going to object and  
3 instruct you not to answer, based  
4 on you're not going to reveal your  
5 settlement strategy, so I'm going to  
6 instruct him not to answer the question.  
7 Q. What connection, if any, does the  
8 Tristan Oil case have with this case?  
9 A. Tristan Oil case with this case?  
10 MR. BLOOR: Objection.  
11 A. Legally, you mean?  
12 Q. In your mind.  
13 A. Two cases in the same country.  
14 Q. And in your discussions with  
15 Mr. Pizzurro and the other lawyers, did you ask  
16 whether we could settle both the Tristan Oil  
17 case and the BTA case?  
18 A. I don't recall using the word  
19 settling.  
20 MR. BLOOR: Objection.  
21 A. What I recall is to try to understand  
22 if there was a way to communicate with the  
23 beneficial owners of all those expropriations  
24 and transactions to try to find a way to solve  
25 one dispute, all disputes.

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1 CONFIDENTIAL -- Claudio Khamis  
2 I mean, they are not linked. If I can  
3 resolve conflicts of -- that I have with  
4 somebody, I'd rather have a look to see whether  
5 there is way to work it out.  
6 Q. Are you paying Mr. Stati's legal fees  
7 in the arbitration proceedings and related  
8 proceedings?  
9 MR. BLOOR: Objection.  
10 THE WITNESS: Should answer?  
11 MR. BLOOR: You can answer.  
12 A. No.  
13 Q. Do you know who is paying Mr. Stati's  
14 legal fees?  
15 A. No.  
16 Q. Have you had any discussions with  
17 Mr. Stati's lawyers in this case?  
18 MR. BLOOR: Objection. I think  
19 we're getting far afield of the issues  
20 relevant here.  
21 A. I have talked to Mr. Stati, and I have  
22 talked to people that work with Mr. Stati. I  
23 don't know what is their profession.  
24 Q. What is Mr. Stati's view of that case?  
25 A. Which case?

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1 CONFIDENTIAL -- Claudio Khamis  
2 Q. The case against him and the  
3 enforcement action --  
4 MR. BLOOR: Objection.  
5 A. I don't know. Mr. Stati speaks  
6 Russian and I speak Spanish and some English.  
7 Q. When you met Mr. Stati, did you have a  
8 translator?  
9 A. Yes.  
10 Q. And who was the translator?  
11 A. Some person that Mr. Stati --  
12 Mr. Stati's team.  
13 Q. What did you discuss with Mr. Stati?  
14 MR. BLOOR: Objection.  
15 A. I don't recall.  
16 Q. You don't recall?  
17 A. I don't recall.  
18 It was a general conversation about --  
19 about fact finding for me and better  
20 understanding, better analysis, a better  
21 everything. It happened -- I don't even  
22 remember the year it happened.  
23 Q. Did you talk to Mr. Stati about the  
24 Kazaword database?  
25 MR. BLOOR: Objection.

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1 CONFIDENTIAL -- Claudio Khamis  
2 A. That, I don't think I heard anything  
3 about the Kazaword database until very recently.  
4 Q. When you met Mr. Ablyazov?  
5 A. I think that was a rumor from before,  
6 but I didn't know -- I don't even know if it's  
7 the same -- the same publications of the same  
8 information made public.  
9 Kazaword was a -- was a name that I had  
10 a -- took me a long time to -- to capture, to  
11 learn.  
12 Q. Was that one meeting with Mr. Stati  
13 the only meeting, as you recall?  
14 A. Yeah.  
15 Q. And the meeting with Mr. Ablyazov, was  
16 that the only meeting you had with Mr. Ablyazov?  
17 A. No, two.  
18 Q. When was the second meeting?  
19 A. In August.  
20 Q. This past August?  
21 A. What day --  
22 Q. We looked at the letter your lawyer  
23 sent in June of this year.  
24 A. No. It's -- no. It's not August.  
25 I'm totally confused.

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1 CONFIDENTIAL -- Claudio Khamis  
2 It was a few weeks ago. I don't know if  
3 it's a month ago.  
4 Q. Where was it? Where was this meeting?  
5 A. France.  
6 Q. The same place as the first meeting,  
7 same country?  
8 A. Same country, France.  
9 Q. Why are you reluctant to share  
10 Mr. Ablyazov's location?  
11 MR. BLOOR: Objection.  
12 A. It is, to my understanding, that there  
13 is, that his life is under threat.  
14 Q. But you know where he is right now?  
15 MR. BLOOR: Objection.  
16 A. No. I don't.  
17 Q. Do you have his phone number?  
18 A. No. I don't.  
19 Q. How do you get in touch with him if  
20 you want to get in touch with him?  
21 MR. BLOOR: Objection.  
22 A. Through a third party.  
23 Q. Which third party?  
24 MR. BLOOR: Objection. These  
25 questions are completely outside the

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1 CONFIDENTIAL -- Claudio Khamis  
2 scope of this litigation, and they are  
3 inappropriate, so -- you know, I think  
4 it's time to move on.  
5 MR. WALSH: I only have a couple  
6 more questions.  
7 Q. These two meetings with Mr. Ablyazov,  
8 those are the only communications that you had  
9 with Mr. Ablyazov? You haven't had phone calls  
10 or conferences? These are the only two times  
11 you met him?  
12 MR. BLOOR: Objection.  
13 A. Yes, two times.  
14 MR. WALSH: We can take a break and  
15 meet again tomorrow.  
16 Off the record.  
17 THE VIDEOGRAPHER: The time is  
18 6:49 p.m. We are going off the record.  
19 (Whereupon, the record was closed.  
20 Time noted: 6:49 p.m.)  
21  
22 -o0o-  
23  
24  
25

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1 CONFIDENTIAL -- Claudio Khamis  
2  
3  
4 INSTRUCTIONS TO WITNESS  
5  
6 Please read your deposition over  
7 carefully and make any necessary corrections.  
8 You should state the reason in the appropriate  
9 space on the errata sheet for any corrections  
10 that are made.  
11 After doing so, please sign the errata  
12 sheet and date it. You are signing same subject  
13 to the changes you have noted on the errata  
14 sheet, which will be attached to your  
15 deposition.  
16 It is imperative that you return the  
17 original errata sheet to the deposing attorney  
18 within thirty (30) days of receipt of the  
19 deposition transcript by you. If you fail to do  
20 so, the deposition transcript may be deemed to  
21 be accurate and may be used in court.  
22

-o0o-

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1 CONFIDENTIAL -- Claudio Khamis  
2  
3 E R R A T A S H E E T  
4  
5 PAGE LINE CHANGE  
6  
7 REASON: \_\_\_\_\_  
8  
9 REASON: \_\_\_\_\_  
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24  
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1 CONFIDENTIAL -- Claudio Khamis

2

3

4 ACKNOWLEDGMENT OF DEPONENT

5

6 STATE OF NEW YORK }  
7 COUNTY OF } SS.:

8

9 I have read the foregoing record of my  
10 testimony taken at the time and place noted in  
11 the heading hereof, and I do hereby acknowledge  
12 it to be a true and correct transcript of same.

13

14

15 \_\_\_\_\_  
CLAUDIO KHAMIS

16

17 Subscribed and sworn to before me  
18 this \_\_\_\_\_ day of \_\_\_\_\_, 2018.

19

20

21 \_\_\_\_\_  
Notary Public

22

23

24

25

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1 CONFIDENTIAL -- Claudio Khamis

2

3

4 C E R T I F I C A T I O N

5

6 STATE OF NEW YORK }  
7 COUNTY OF NASSAU } : S.S.:

8

9 I, APRYL S. MONTERO, a Notary Public for  
10 and within the State of New York, do hereby  
11 certify:

12

13 That the testimony in the within  
14 proceeding was held before me at the aforesaid  
15 time and place, that said witness was duly sworn  
16 or affirmed before the commencement of the  
17 testimony, and that the testimony was taken  
18 stenographically by me, then transcribed under  
19 my supervision, and that the within transcript  
20 is a true record of the testimony of said  
21 witness.

22

23 I further certify that I am not related  
24 to any of the parties to this action by blood or  
25 by marriage, that I am not interested directly  
or indirectly in the matter in controversy, nor  
am I in the employ of any of the counsel.

26

27 IN WITNESS WHEREOF, I have hereunto set  
28 my hand this December 20, 2018.

29

30 \_\_\_\_\_  
31 APRYL S. MONTERO

32

33 (The foregoing certification of  
34 this transcript does not apply to any  
35 reproduction of the same by any means, unless  
under the direct control and/or supervision of  
the certifying reporter.)

36

\$	\$50 (2)	313:10	311:18,19,23;312:3
	27:7;302:19	about (204)	above (3)
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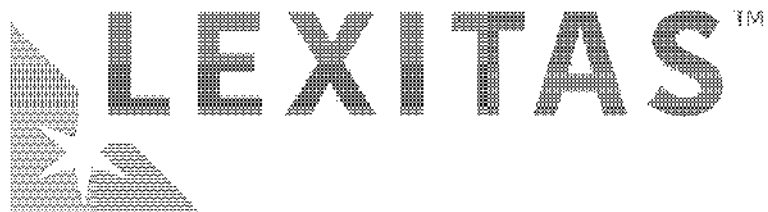
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**In the Matter Of:**  
**Atlantica Holdings, Inc. v.**  
**Sovereign Wealth Fund**

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Claudio Khamis  
December 7, 2018  
Confidential

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1 \*\*\*\*\* C O N F I D E N T I A L \*\*\*\*\*  
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3  
4 UNITED STATES DISTRICT COURT  
5 SOUTHERN DISTRICT OF NEW YORK  
6 ----- X  
7  
8 ATLANTICA HOLDINGS, INC.,  
9 BALTIKA INVESTMENT HOLDINGS,  
10 INC., BLU FUNDS, INC., ALLAN  
11 KIBLISKY, ANTHONY KIBLISKY, and  
12 JACQUES GLIKSBERG,  
13 Plaintiffs,  
14  
15 - against -  
16  
17 SOVEREIGN WEALTH FUND  
18 "SAMRUK-KAZYNA" JSC,  
19 a/k/a "National Welfare Fund  
20 "Samruk-Kazyna",  
21 Defendants.  
22 ----- X  
23  
24 ATLANTICA HOLDINGS, INC.,  
25 BALTIKA INVESTMENT HOLDINGS,  
26 INC., BLU FUNDS, INC., ALLAN  
27 KIBLISKY, ANTHONY KIBLISKY, and  
28 JACQUES GLIKSBERG,  
29 Plaintiffs,  
30  
31 - against -  
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33 BTA BANK, JSC,  
34 Defendant.  
35 ----- X  
36  
37 101 Park Avenue  
38 New York, New York  
39  
40 December 7, 2018

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2  
3  
4 COZEN O'CONNOR  
5 Attorneys for the Plaintiff  
6  
7 277 Park Avenue  
8 New York, New York 10172  
9 (212) 863-4900  
10  
11 BY: MARTIN S. BLOOR, ESQ.  
12 mbloor@cozen.com  
13  
14  
15  
16  
17  
18 THE LAW OFFICES OF DAVID LITTLETON  
19 Attorneys for the Plaintiff  
20  
21 1750 K Street NW  
22 Washington, DC 20006  
23 (202) 256-1914  
24  
25 BY: DAVID LITTLETON, ESQ.  
26 david@rowhouseccap.com  
27  
28  
29  
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1  
 2 STIPULATIONS  
 3  
 4 IT IS HEREBY STIPULATED AND AGREED by and  
 5 between the attorneys for the respective parties  
 6 hereto that filing and sealing be and the same  
 7 are hereby waived.  
 8 IT IS FURTHER STIPULATED AND AGREED that  
 9 all objections, except as to the form of the  
 10 question, shall be reserved to the time of the  
 11 trial.  
 12 IT IS FURTHER STIPULATED AND AGREED that  
 13 the within examination may be signed and sworn  
 14 to before any Notary Public with the same force  
 15 and effect as though signed and sworn to before  
 16 this Court.  
 17 -oOo-  
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1  
 2 (Whereupon, Khamis Exhibit  
 3 Number 39, email, was marked for  
 4 identification as of this date.)  
 5 CLAUDIO KHAMIS,  
 6 The witness herein, having previously  
 7 been duly sworn or affirmed by Apryl S. Montero,  
 8 a Notary Public within and for the State of New  
 9 York, was examined and testified as follows:  
 10 THE VIDEOGRAPHER: The time is  
 11 9:47 a.m. This begins media number 1 of  
 12 the video deposition of Mr. Claudio  
 13 Khamis.  
 14 You may proceed.  
 15 EXAMINATION  
 16 BY JONATHAN WALSH, ESQ.:  
 17 Q. Good morning, Mr. Khamis.  
 18 A. Good morning.  
 19 Q. You understand that you're still under  
 20 oath?  
 21 A. Yes.  
 22 Q. And that you're testifying today on  
 23 behalf of plaintiffs Atlantica, Baltica, and Blu  
 24 Funds?  
 25 A. Correct.

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1 CONFIDENTIAL -- Claudio Khamis  
2 Q. And that your testimony is binding on  
3 those entities?  
4 A. Correct.  
5 Q. Are you able to testify truthfully and  
6 accurately today?  
7 A. Yes.  
8 Q. Are you under the influence the any  
9 medications today?  
10 A. Nothing different from what was  
11 yesterday.  
12 Q. The thyroid medications that you  
13 discussed yesterday?  
14 A. Correct.  
15 Q. We were talking yesterday about  
16 Tristan Oil, and I don't believe you were able  
17 to recall the date that you met with  
18 Mr. Stati --  
19 A. What are you saying?  
20 Q. Mr. Stati. You testified yesterday  
21 about your meeting with Antonin Stati from  
22 Tristan Oil?  
23 A. Yes.  
24 Q. And you don't remember when you met  
25 with him?

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1 CONFIDENTIAL -- Claudio Khamis  
2 A. It was a few years ago.  
3 Q. Your lawyer contacted Joe Pizzurro of  
4 my firm in approximately May of 2016 asking  
5 whether we could settle both the Tristan Oil  
6 case and this case  
7 Does that refresh your recollection when  
8 you met with Mr. Stati? Was it before May of  
9 2016?  
10 MR. BLOOR: Objection.  
11 A. I'm not sure. I would guess it was  
12 way before.  
13 Q. Was it the year 2016 or was it  
14 possibly 2015?  
15 A. Possibly prior to 2016.  
16 Q. Was your lawyer, Mr. Jaffe, at the  
17 meeting with Mr. Stati?  
18 A. No.  
19 Q. Did you have any lawyers at that  
20 meeting?  
21 A. No.  
22 Q. And that was a meeting in Spain?  
23 A. Yes.  
24 Q. Okay. I've marked as Exhibit 39  
25 before you an email from Igal Yacher. I'll

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1 CONFIDENTIAL -- Claudio Khamis  
2 represent that this is an email that you  
3 received. You produced it to us, as you can see  
4 from the Bates number.  
5 This is the first time that you became  
6 aware of the terms of the 2012 restructuring;  
7 correct?  
8 A. I don't know. I don't recall exactly  
9 the time. I probably -- it was by phone. This  
10 email was -- I couldn't say how it was.  
11 I recognize the email.  
12 Q. And what was your reaction when you  
13 heard the terms of the 2012 restructuring?  
14 MR. BLOOR: Objection.  
15 Q. Did you have a reaction when you  
16 learned how the subordinated notes would be  
17 treated in the 2012 restructuring?  
18 MR. BLOOR: Objection.  
19 You can answer.  
20 A. I had a -- the initial reaction was --  
21 was -- I don't know what the initial reaction  
22 was exactly. Probably was trying to get the  
23 facts straight and trying to understand what  
24 really happened, make sense of all the previous  
25 information that I had and how I would try to

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1 CONFIDENTIAL -- Claudio Khamis  
2 reassess what went on  
3 It was, in any case, not just the -- the  
4 wipe out of the value of the subordinated notes,  
5 it's also implying it would take me away from my  
6 property, my participation in the recovery note  
7 structure, and for me, that was a surprise at  
8 the time  
9 Q. And did you contact lawyers to  
10 represent you in connection with the 2012  
11 restructuring?  
12 A. At some point in time, I did  
13 Q. And did you contact the Dechert firm  
14 from Philadelphia --  
15 Actually, it was the Dechert firm in  
16 London.  
17 A. I -- I didn't contact, that I recall,  
18 directly the Dechert firm in London.  
19 Dechert was advising the steering committee  
20 of Tristan Oil in legal matters, and I think  
21 they were aware of everything that was happening  
22 in Kazakhstan, and I think this is eventually  
23 how I got in contact with somebody that then  
24 turned me on to Alston & Bird. Alston & Bird  
25 was introduced by Dechert.

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1 CONFIDENTIAL -- Claudio Khamis  
2 Q. Is it possible it's Cohen & Gresser?  
3 A. I'm sorry, Cohen & Gresser. You're  
4 right.  
5 Q. When did you first get involved with  
6 Tristan and Dechert?  
7 MR. BLOOR: Objection.  
8 A. I don't have the exact dates in my  
9 mind.  
10 Q. Do you recall who at Dechert you were  
11 dealing with with respect to Tristan Oil?  
12 A. Not really.  
13 I was part of the steering committee. I  
14 wasn't engaging, that I recall directly -- there  
15 were -- there was a leading counsel at Dechert,  
16 obviously a man, but I don't recall exactly what  
17 the level of -- what the level of the discussion  
18 was, besides that I wanted to get, engage into  
19 legal action. I don't -- I don't recall the  
20 dates are clear.  
21 Q. I'm handing you what's been marked as  
22 Exhibit 42 at Mr. Kiblsky's deposition, and  
23 I've turned to the last page, which is a letter  
24 from Dechert to a number of parties, including  
25 BTA Bank, dated October 12, 2012, and you see,

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1 CONFIDENTIAL -- Claudio Khamis  
2 this is from Camille Ablousleiman.  
3 A. Yeah.  
4 Q. Does this refresh your recollection --  
5 A. No, not really. I would have to read  
6 through and -- that, I don't think I'm familiar  
7 with.  
8 Q. And do you see this letter is from  
9 Dechert, and they purport to represent the  
10 holders of the subordinated notes.  
11 Do you see the first paragraph?  
12 A. Yeah.  
13 Q. Did that include you?  
14 A. I -- I don't know. I couldn't tell.  
15 The steering committee of the previous  
16 restructuring, of the 2010 restructuring, I  
17 expect, was on behalf of bondholders, too. I  
18 assume every bondholder. I don't know any  
19 reason for discrimination.  
20 Q. Did you see this letter before it went  
21 out?  
22 A. No.  
23 Q. Did you receive this letter later?  
24 A. I don't know.  
25 It doesn't sound familiar to me today, as I

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1 CONFIDENTIAL -- Claudio Khamis  
2 read it.  
3 Q. When was the first time you talked to  
4 Mr. Jaffe?  
5 MR. BLOOR: Objection.  
6 In connection with this matter, I  
7 assume?  
8 Q. When was the first time you ever  
9 talked to Mr. Jaffe?  
10 A. In connection with this matter?  
11 Q. Any time.  
12 A. I don't recall.  
13 I recall the first time I saw him in  
14 person.  
15 Q. When was that?  
16 A. I don't -- I don't have exact clear,  
17 the timeline.  
18 But this was, I think, prior to starting or  
19 representing or right after I started  
20 litigation. I couldn't -- I couldn't be more  
21 precise.  
22 Q. The case was filed in January of --  
23 I'm sorry, in December of 2012.  
24 Does that refresh your recollection?  
25 A. No.

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1 CONFIDENTIAL -- Claudio Khamis  
2 Q. Well, Mr. Jaffe filed a claim on your  
3 behalf and on behalf of other plaintiffs in  
4 December 2012.  
5 A. I'm not putting into question a claim  
6 was filed.  
7 Q. Did you talk to Mr. Jaffe before the  
8 claim was filed?  
9 A. Personally?  
10 Q. Yes.  
11 A. My recollection it that the meeting I  
12 had with Mr. Jaffe was to present the work that  
13 they did in relation with the case. I would  
14 assume that it was prior to the initiation of  
15 litigation, because that's how things usually  
16 work. Basically, they explained the basics --  
17 MR. BLOOR: Don't go into the  
18 conversation with Mr. Jaffe.  
19 MR. WALSH: I don't want to get into  
20 details  
21 Why don't we take a quick break and  
22 we'll organize some exhibits.  
23 THE VIDEOGRAPHER: The time is 9:57.  
24 We are going off the record.  
25 (Whereupon, a brief recess was

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1 CONFIDENTIAL -- Claudio Khamis  
2 taken.)  
3 (Whereupon, Khamis Exhibit  
4 Number 49, email, was marked for  
5 identification as of this date.)  
6 THE VIDEOGRAPHER: The time is  
7 10:06 a.m. We are back on the record.  
8 Q. Mr. Khamis, I've handed you what's  
9 been marked as Exhibit 40. It's an email from  
10 Mr. Izzo to you, dated March 12, 2012, and  
11 attached is the BTA bond prospectus, and if you  
12 look at the attachment, it's a draft. It's  
13 called WNC draft, London, August 20, 2010.  
14 Do you recall receiving this email from  
15 Mr. Izzo?  
16 A. No, I don't.  
17 Q. Do you recall reviewing the  
18 attachment?  
19 A. No, I don't.  
20 Q. Do you know why Mr. Izzo is sending  
21 you this draft information document in March of  
22 2012?  
23 A. Izzo would send me all along, like,  
24 multiple unsolicited information.  
25 Q. Why would the draft document from 2010

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1 CONFIDENTIAL -- Claudio Khamis  
2 be relevant to you in 2012?  
3 MR. BLOOR: Objection.  
4 A. At 2012 I knew something very wrong  
5 had been going on, and I just wanted my money  
6 back.  
7 Q. By March of 2012?  
8 A. After I knew what went on.  
9 Q. When did you --  
10 When did that happen? When did you know  
11 what was going on?  
12 A. When I received the terms of the  
13 exchange -- when I know about the -- when I know  
14 I received 97.5 percent of my holdings were  
15 taken away.  
16 Q. In November of 2012?  
17 MR. BLOOR: Objection.  
18 A. I don't know.  
19 Q. Well, we looked at the email.  
20 Does that refresh your recollection, 39?  
21 MR. BLOOR: Objection.  
22 A. I told you already, I don't remember  
23 receiving this email.  
24 Q. But you do recall learning the terms  
25 of the 2012 restructuring?

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1 CONFIDENTIAL -- Claudio Khamis  
2 MR. BLOOR: Objection. I mean,  
3 you've asked him that 20 times already.  
4 MR. WALSH: I'm just trying to fix  
5 the time.  
6 MR. BLOOR: He said he doesn't  
7 remember receiving 39, so you can't keep  
8 say he learned about it in November, so  
9 he's telling you he doesn't recall.  
10 Q. You obviously didn't know the terms of  
11 2012 restructuring before they were released;  
12 right?  
13 A. Before they were released? I don't  
14 think so.  
15 (Whereupon, Khamis Exhibit  
16 Number 41, a UBS statement, was marked  
17 for identification as of this date.)  
18 Q. Mr. Khamis, you continued to buy BTA  
19 subordinated bonds in March of 2012; correct?  
20 A. In March of 2012? I would have to see  
21 the list.  
22 Q. I've handed you Exhibit 41 --  
23 A. This is confusing to me. It's better  
24 to see the list that was attached --  
25 Q. You have the complaint, if you want to

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1 CONFIDENTIAL -- Claudio Khamis  
2 grab that  
3 MR. BLOOR: 24, I think it is.  
4 Here's my copy.  
5 A. Yes, that's correct.  
6 Q. Why were you continuing to buy  
7 subordinated bonds in March of 2012?  
8 A. There was an email dated at the  
9 beginning of February. It was actually not an  
10 email, it was a press release that I saw at some  
11 point in February, probably early February, in  
12 which -- in which it was stated that some form  
13 of talks would be engaged by government  
14 officials, I guess, to talk and sit with the  
15 bondholders to discuss about the necessity of a  
16 second restructuring, which was, again,  
17 conflicting with what was portrayed previously  
18 about, that the restructuring was happening, and  
19 then again, it's confusing and it's  
20 contradicting, and they talk about discussing  
21 the necessity of a second restructuring.  
22 And I think they also talked about at the  
23 time about the, that SK would inject capital to  
24 the bank, and that discussions would be among --  
25 the talk was about also bondholders injecting

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1 CONFIDENTIAL -- Claudio Khamis  
2 capital.  
3 So it seemed at the time, like, first of  
4 all, the second restructuring wasn't even short,  
5 because they were discussing it, so the force or  
6 the reasons for the need were not that important  
7 or contradictory, and when they talk about  
8 bondholders injecting capitals with SK, that  
9 could have been a lot of different things but  
10 all of them kind of positive, so bondholders  
11 would buy also shares at an offering or  
12 bondholders, how it could be very obvious, at  
13 the time it was debt for equity.  
14 There were many, many possibilities open,  
15 but it was the first time when you see  
16 government officials saying clearly that they  
17 are sitting to the table with bondholders to  
18 even talk about the necessity, so --  
19 But again, this goes into all the  
20 information that I was processing at the time,  
21 and if I see here the list of the purchases  
22 after 2010, after more than a year, after  
23 September 2010, there was nothing being bought,  
24 and then in February 3rd, 2012, I started very  
25 intensive buying, so this is exactly probably

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1 CONFIDENTIAL -- Claudio Khamis  
2 around the time all this was being disclosed to  
3 the public.  
4 I don't remember exactly how I got to know  
5 about it, other than it was -- I remember  
6 clearly that it was statements from government  
7 officials.  
8 MR. WALSH: Let me mark an exhibit.  
9 (Whereupon, Khamis Exhibit  
10 Number 42, email, was marked for  
11 identification as of this date.)  
12 Q. I've handed you Exhibit 42,  
13 Mr. Khamis. This is an email from Mr. Izzo to  
14 you, dated March 5, 2012. He's forwarding an  
15 email he received from Renaissance Capital.  
16 Do you see that?  
17 A. Yeah.  
18 Q. And it talks about the recovery  
19 efforts in the first paragraph and also the  
20 deposit withdrawals at BTA.  
21 Do you recall reviewing this email when you  
22 received it in March of 2012?  
23 A. I don't recall reviewing it, but most  
24 likely, I did.  
25 Q. You see at the bottom of that first

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1 CONFIDENTIAL -- Claudio Khamis  
2 page, Renaissance Capital writes:  
3 No tangible information is available  
4 regarding Samruk-Kazyna's willingness to share  
5 the cost of the second restructuring, via  
6 accepting write-offs on its own deposits with  
7 BTA.  
8 Were you aware of that, at the time you  
9 read the email, that there was no information  
10 regarding what SK was going to do?  
11 MR. BLOOR: Objection.  
12 A. This information is, again, as  
13 conflicting as it was, the information at around  
14 August 2011 regarding Kulibayev's and the  
15 daughter of the president's owning Halyk Bank  
16 and the interest in buying bonds after the  
17 investor presentation was made in May 2011.  
18 So this is, again, is conflicting, and  
19 again, is about making assessments of what you  
20 think is right and who do you believe. Do you  
21 believe an SK official, or do you believe what  
22 you're reading?  
23 Q. What about the UK court? Did you take  
24 any credence that the UK court found that  
25 Ablyazov had lied about his assets and that --

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1 CONFIDENTIAL -- Claudio Khamis  
2 A. I wasn't paying attention at the time  
3 to legal proceedings.  
4 Q. You had recovery units, correct?  
5 A. I wasn't paying attention at this time  
6 to legal.  
7 I would expect the recovery unit  
8 information to be handed to me through the trust  
9 deed in a very clear way and was an implemented  
10 mechanism still at the time, according to the  
11 information memorandum, so . . .  
12 Q. Did you know UBS was an underwriter in  
13 the first restructuring?  
14 A. I heard that UBS had some advisory  
15 role.  
16 Q. Did you ever ask UBS for information  
17 regarding BTA?  
18 A. There was a Chinese wall --  
19 MR. BLOOR: Objection.  
20 Q. What do you mean by Chinese wall?  
21 A. What I mean by Chinese wall is that  
22 different parts of the bank don't tell their --  
23 their private clients or whatever section of the  
24 bank it is, what they do.  
25 Q. This is Exhibit 36 from Mr. Kiblisky's



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1 CONFIDENTIAL -- Claudio Khamis  
2 deposition. The translation of a email from  
3 April 2012, entitled print chat on EFG, ETA, and  
4 it's from Mr. Kiblisky to you, Mr. Khamis.  
5 Do you recall receiving this email?  
6 MR. BLOOR: Objection. It's from  
7 him to Kiblisky.  
8 MR. WALSH: My apologies.  
9 Q. Mr. Khamis, you sent this.  
10 You do you recall sending this email?  
11 A. Yeah.  
12 Q. And why --  
13 A. I don't recall much about the email,  
14 but if I sent it, I must have seen it.  
15 Q. What is EFG?  
16 A. EFG, as I understand, a financial  
17 institution based out of Miami.  
18 Q. Did you use them to, as a broker for  
19 your BTA trading?  
20 A. My BTA -- EFG, it's my understanding,  
21 was the one who was selling BTA bonds to UBS, to  
22 my account to UBS.  
23 Q. Did you ever talk to anyone at EFG  
24 about BTA?  
25 A. No.

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1 CONFIDENTIAL -- Claudio Khamis  
2 Q. This is also an exhibit from  
3 Mr. Kiblisky's deposition. It's an email from  
4 you to Mr. Kiblisky, dated May 10, 2012.  
5 What are you asking Mr. Kiblisky here?  
6 A. I'm asking what the other owners of,  
7 big holders of the 2025.  
8 Q. Why were you asking that?  
9 A. I don't recall.  
10 Q. Were you trying to find a market for  
11 these subordinated bonds?  
12 A. At what time?  
13 Q. In May of 2012?  
14 A. May of 2012?  
15 Q. Right. When the email was --  
16 A. I don't recall ever thinking about  
17 selling bonds at the time.  
18 Q. I'm sorry, sellers. Were you looking  
19 for sellers --  
20 A. No --  
21 Oh, to buy more you mean?  
22 Q. Correct.  
23 A. I don't recall.  
24 Q. And then you ask:  
25 Are there write-offs of loans made by BTA

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1 CONFIDENTIAL -- Claudio Khamis  
2 employee-qualified?  
3 Why were you asking that, item two?  
4 A. I don't recall.  
5 Q. There are a number of other questions  
6 about the recovery efforts.  
7 Do you see that, items three, four, five,  
8 six?  
9 A. Excuse me? You want me to read all of  
10 them?  
11 Q. Yes, please.  
12 (Whereupon, the Witness complied  
13 with the request.)  
14 A. Yes. It says there are general  
15 questions about -- about BTA Bank and its assets  
16 and the fight between recovery unit holders for  
17 seniority.  
18 Q. Why were you asking these questions?  
19 A. I don't recall what could have, what  
20 information I may have had in my head at the  
21 time to make these questions.  
22 Q. Were you purchasing BTA bonds in this  
23 time period?  
24 A. The list purchases, as I told you, I  
25 have a very serious problem recalling all these

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1 CONFIDENTIAL -- Claudio Khamis  
2 transactions and the reasons for one of them, as  
3 I told you, these were very turbulent times.  
4 Q. What do you mean?  
5 A. Information just was conflicting, as  
6 you pointed out a few minutes ago.  
7 Q. Why were you buying BTA bonds if the  
8 information was conflicting?  
9 MR. BLOOR: Objection.  
10 A. I think I answered that yesterday.  
11 Q. Can you answer my question?  
12 A. Every time I do a purchase it's  
13 because I think the market price is different  
14 from the intrinsic value.  
15 Q. So you believed at the time of the  
16 2012 purchases that the bonds were trading below  
17 their intrinsic value?  
18 A. I believe that they were trading below  
19 the intrinsic value, and I still, at the time, I  
20 don't remember exactly the date, but the general  
21 theme of the purchases was that there's a big  
22 restructuring was just done shortly before in  
23 2010, end of 2010, and that massive  
24 provisionings were already done in 2010, and  
25 what is really --

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1 CONFIDENTIAL -- Claudio Khamis  
2 The most important thing about banks is the  
3 quality of the assets, and I didn't -- I just  
4 thought that my assessment at the time was right  
5 and that assets couldn't vanish.  
6 Q. This is Exhibit 40 from Mr. Kiblsky's  
7 deposition. This is a series of emails between  
8 Mr. Kiblsky and Dan Chapman at Black River, and  
9 Mr. Kiblsky has forwarded the email chain to  
10 you in June of 2012.  
11 Who is Dan Chapman?  
12 A. Dan Chapman was the president of the  
13 steering committee at Tristan Oil.  
14 Q. Did his company, Black River, owned  
15 Tristan bonds?  
16 A. I don't know what they owned besides  
17 Tristan.  
18 Q. They were on the steering committee  
19 because they were a creditor?  
20 A. Tristan Oil.  
21 Q. And at this time, did you own Tristan  
22 Oil bonds?  
23 A. Yes.  
24 Q. Does this refresh your recollection  
25 when you first took a position in Tristan Oil?

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1 CONFIDENTIAL -- Claudio Khamis  
2 A. No.  
3 It is, in any case, in the bank statements  
4 that you guys have access to.  
5 Q. We didn't get that. Your lawyers  
6 objected to us getting the Tristan Oil --  
7 MR. WALSH: Can we get that?  
8 MR. BLOOR: We'll take that under  
9 advisement.  
10 A. I'll talk to my lawyer about it.  
11 Q. You're willing to provide it.  
12 MR. BLOOR: Objection.  
13 You can answer.  
14 Q. At this time, what was the value --  
15 What was the cost basis of your position in  
16 Tristan Oil?  
17 A. My cost basis, at the time? I  
18 couldn't tell you.  
19 Q. Did you buy any Tristan Oil bonds  
20 after this time period? This is June of 2012  
21 A. I have trouble recalling the timeline  
22 of all my purchases in BTA bonds,  
23 imagine recalling the timeline of Tristan Oil  
24 purchases, of Tristan Oil bonds.  
25 What I can tell you it was more than one

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1 CONFIDENTIAL -- Claudio Khamis  
2 purchase.  
3 Q. And there are records?  
4 A. Sure, there are.  
5 Q. Mr. Mr. Khamis, I've handed you what  
6 was marked as Exhibit 43 at Mr. Kiblsky's  
7 deposition. It is a series of emails between  
8 Mr. Kiblsky and Adam Silver of Dechert, dated  
9 October 22, a series of emails from October.  
10 Who is Adam Silver?  
11 A. It seems a person that works for  
12 Dechert.  
13 Q. And did you ever talk to Mr. Silver?  
14 A. It could have been a conference call  
15 we had with Tristan Oil where sometimes Dechert  
16 was present.  
17 Q. And if you scroll down, you'll see  
18 he's forwarding from Camille Ablousleiman --  
19 from Dechert in London, and Mr. Francis  
20 Fitzherbert-Brockholes from White & Case is  
21 responding.  
22 Is it your understanding that he's  
23 responding to Exhibit 42?  
24 A. To answer your question, I don't even  
25 know when this communication took place. This

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1 CONFIDENTIAL -- Claudio Khamis  
2 took place regarding to the terms of the second  
3 restructuring. This is prior, later.  
4 Q. Take a look at Exhibit 43, which we  
5 showed you earlier.  
6 A. I couldn't tell you what it is  
7 Q. But look at this.  
8 A. This is the same  
9 Q. No. It's what I showed you earlier.  
10 It's in your pile, but keep this moving.  
11 The lawyers at Dechert sent this letter to  
12 White & Case and BTA asking for an understanding  
13 of how the subordinated notes would be treated.  
14 Were you in discussions with Dechert at  
15 that time period about BTA and your subordinated  
16 notes?  
17 MR. BLOOR: Objection.  
18 A. I don't recall.  
19 Q. You have an email that Mr. Kiblsky is  
20 forwarding you --  
21 A. I see the email. I just don't recall  
22 what were the talks about, besides the very  
23 explicit mention here that this, some finding of  
24 BTA. I don't know -- I couldn't know  
25 anything besides --

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1 CONFIDENTIAL -- Claudio Khamis  
2 And who is this Ablousleiman to  
3 Fitzherbert? I don't know Fitzherbert. I mean,  
4 this is not -- this is something between a guy I  
5 barely know and a guy I don't know at all. Why  
6 would I know something?  
7 Q. Did you engage Dechert to represent  
8 you with respect to your BTA subordinated notes?  
9 MR. BLOOR: Objection.  
10 A. I don't recall -- I recall Dechert  
11 introducing Cohen & Gresser, and I don't know  
12 what other services. I remember that I paid big  
13 bills to lawyers for this stuff, but I  
14 couldn't -- wouldn't remember what -- what the  
15 role it could have been of Dechert in this stuff  
16 at this stage.  
17 To my recollection, Cohen & Gresser was --  
18 was -- was doing the work or the majority of the  
19 work, but listen, I don't have clear  
20 recollections at all of this period.  
21 Q. Turn your attention back to the  
22 letter.  
23 Do you have it?  
24 Dechert writes that they represent  
25 22 percent of the subordinated notes.

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1 CONFIDENTIAL -- Claudio Khamis  
2 Does that refresh your recollection --  
3 A. I told you already, I don't have  
4 recollections.  
5 You're going to insist, how many times are  
6 you going to insist?  
7 Q. This is 41 from Mr. Kiblsky's  
8 deposition. This is an email Mr. Kiblsky  
9 forwards you about the terms of the 2012  
10 restructuring as they related to the  
11 subordinated notes. It's dated October 21st,  
12 2012.  
13 Does that refresh your recollection when  
14 you learned how the subordinated notes would be  
15 treated?  
16 A. Jonathan, if you want me to force,  
17 make me up recollections -- either you have  
18 memory, or you don't.  
19 Q. Just trying to refresh your  
20 recollection to see if --  
21 A. Listen, there is a point in which  
22 either you have clear recollections or you  
23 don't.  
24 MR. BLOOR: So this doesn't refresh  
25 your recollection; right?

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1 CONFIDENTIAL -- Claudio Khamis  
2 THE WITNESS: This doesn't refresh  
3 my recollection.  
4 'There' so much information flowing  
5 around.  
6 MR. BLOOR: Let him ask his next  
7 question.  
8 Q. I'm going to keep trying, Mr. Khamis,  
9 see if one of these refreshes your recollection.  
10 Exhibit 45 from Mr. Kiblsky's deposition  
11 is an email that you wrote, November 14, 2012,  
12 and you're attaching a number of BTA reports,  
13 including the May 18th report that's referenced  
14 in the complaint.  
15 Does this refresh your recollection.  
16 Mr. Khamis, what you were talking to Dechert  
17 about in this time period?  
18 A. No. It clearly, as I was sharing with  
19 them information regarding the -- the stuff and  
20 probably was in connection for them to introduce  
21 me a lawyer.  
22 Q. Did they introduce a lawyer to you?  
23 A. Yes.  
24 Q. Mr. Jaffe?  
25 A. Yes.

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1 CONFIDENTIAL -- Claudio Khamis  
2 Q. Did you ask Dechert to draft a  
3 complaint for suing SK Fund?  
4 MR. BLOOR: Objection.  
5 A. I don't recall exactly what I asked at  
6 the time. Dechert was legal advisor for the  
7 Tristan Oil steering committee. They were  
8 lawyers. They introduced me Brett. I don't  
9 recall exactly what else.  
10 Q. This is Exhibit 46 from Mr. Kiblsky's  
11 deposition. It's a series of emails between you  
12 and Mr. Maser at UBS.  
13 Do you see that?  
14 A. Yeah.  
15 Q. What are you asking Mr. Maser here?  
16 A. Which page are you looking at?  
17 Q. Well, there's a Spanish version and an  
18 English version. You can look at either. It's  
19 entitled very important, Blu Funds, BTA.  
20 MR. BLOOR: I'm sorry --  
21 A. I'm asking --  
22 Q. Let's start at the bottom of the  
23 email; right? It says:  
24 Very important Blu Funds BTA [in Spanish]  
25 remember that the information reported to Blu

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1 CONFIDENTIAL -- Claudio Khamis  
2 Funds attorneys is incorrect, since the current  
3 managers and directors are from Morgan &  
4 Morgan --  
5 A. The information reported to the Blu  
6 Fund is incorrect --  
7 Q. If you could read that to yourself.  
8 A. Yes.  
9 Yes.  
10 Q. And you write:  
11 Be very carefully with this. The lawsuit  
12 could fall on us due to something foolish.  
13 What lawsuit were you referring to there?  
14 A. Most likely the legal action I was  
15 taking against SK.  
16 Q. With respect to BTA?  
17 A. With respect to -- to the matter that  
18 we're treating here.  
19 Q. At the end of the email you write:  
20 It's possible that we need to make a change  
21 of directors and put me in, since in the fight  
22 the Kazakhs might attack them personally.  
23 What are you referring to?  
24 A. I didn't want to have directors at the  
25 time -- most likely, at the time, I heard

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1 CONFIDENTIAL -- Claudio Khamis  
2 something already about the dirty practice of  
3 the Kazakh government as portrayed in the Lewis  
4 Report, and I didn't want to expose people that,  
5 first of all, didn't know anything about what  
6 the -- what the case was about  
7 Q. What dirty tactics are you referring  
8 to?  
9 A. I don't recall exactly now, but there  
10 was a report written by a Dr. Lewis about a lot  
11 of set of tactics used by Kazakh government to  
12 harass their opponents.  
13 MR. WALSH: Let me take a quick  
14 break and get some exhibits. I probably  
15 have another hour.  
16 THE VIDEOGRAPHER: The time is  
17 10:39. We are going off the record.  
18 (Whereupon, a brief recess was  
19 taken.)  
20 (Whereupon, Khamis Exhibit  
21 Number 43, a BTA Bank Prospectus, was  
22 marked for identification as of this  
23 date.)  
24 THE VIDEOGRAPHER: The time is  
25 10:51 a.m. We are back on the record.

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1 CONFIDENTIAL -- Claudio Khamis  
2 Q. Mr. Khamis, I've handed you what was  
3 previously marked as Exhibit 50 in  
4 Mr. Kiblsky's deposition.  
5 Do you see this is the complaint that was  
6 filed in December 2012 against SK Fund?  
7 Do you see that?  
8 A. Yes.  
9 Q. And do you recognize the complaint?  
10 A. Yes.  
11 Q. And did you see this complaint before  
12 it was filed?  
13 A. Yes.  
14 Q. And did you provide information to  
15 your lawyers at Cohen & Gresser to help prepare  
16 this complaint?  
17 A. I must have to.  
18 Q. And you see that there are number of  
19 other individual plaintiffs --  
20 A. This is the first complaint, or this  
21 is the amended complaint?  
22 Q. This is the very first complaint.  
23 This is where we all got together.  
24 So you authorized this, the filing of this  
25 complaint on behalf of Atlantica, Baltica, and

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1 CONFIDENTIAL -- Claudio Khamis  
2 Blu Funds; correct?  
3 A. Correct.  
4 Q. And you reviewed it to confirm that  
5 the allegations had a basis.  
6 Did you review it to confirm that the  
7 allegations here had a basis in fact?  
8 A. Yes.  
9 Q. If you could turn to the end, we have  
10 that same chart of your purchases, your  
11 companies' purchases.  
12 A. Yes.  
13 Q. And did you provide that information  
14 to Cohen & Gresser to include in the complaint?  
15 A. I don't know whether that was provided  
16 by the UBS account statements or directly by me.  
17 I don't know what the process was, but I  
18 provided everything that was asked by my lawyer.  
19 Q. If you look at page 8 of this  
20 complaint, you see in paragraph 27, plaintiffs  
21 have alleged that:  
22 BTA Bank distributed the information  
23 memorandum to BTA's creditors, including  
24 plaintiffs and other debt holders.  
25 A. Yes.

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1 CONFIDENTIAL -- Claudio Khamis  
2 Q. Is that accurate?  
3 A. Yes. It's accurate. They put it on  
4 the web page. Every creditor got to know about  
5 it.  
6 Q. And that would include Atlantica,  
7 Baltica, and Blu Funds?  
8 A. Yes.  
9 Q. And you testified earlier that you  
10 looked it on the Internet?  
11 A. I had it available on the Internet,  
12 yes.  
13 Q. And that you received excerpts?  
14 A. Correct.  
15 Q. Do you recall when you received those  
16 excerpts?  
17 A. No. I don't remember.  
18 Q. This is Exhibit 43. This is a copy of  
19 information memorandum that your lawyers  
20 attached in a filing this case.  
21 Do you see it?  
22 A. Yes, I see it.  
23 Q. You never got a hardcopy like this  
24 printed out for you?  
25 A. I wouldn't recall what I could have

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1 CONFIDENTIAL -- Claudio Khamis  
2 gotten printed out at the time of all the  
3 investments. I usually get thick documents, but  
4 I couldn't tell you, certainly, if I got this or  
5 I didn't.  
6 What I remember with clarity is what I told  
7 you yesterday about the -- that it was available  
8 on the web page, and that the excerpts were very  
9 thoroughly analyzed, especially the ones about  
10 the notes.  
11 Q. Can you turn to page 119?  
12 MR. BLOOR: We're on this here.  
13 A. The big documents?  
14 So can I put this aside?  
15 Q. Put it right there.  
16 A. Page 119?  
17 Q. Correct.  
18 This is the section on risk factors.  
19 Did you receive this in hardcopy form?  
20 A. I remember reading some of the risk  
21 factors.  
22 Q. If you turned to page 70 of the  
23 document?  
24 A. Of?  
25 Q. Same, page 70.

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1 CONFIDENTIAL -- Claudio Khamis  
2 A. Yes.  
3 Q. It actually starts on page 69. It's  
4 entitled undertakings by the bank and  
5 Samruk-Kazyna. It goes on to the next page.  
6 Did you review this in connection with your  
7 purchases in 2010?  
8 A. I don't recall. I could have, I could  
9 have not. I don't recall.  
10 Q. Do you see on page 70 under dividends,  
11 it reads:  
12 The banks will undertake that no dividend,  
13 other than a permitted dividend, shall be paid  
14 on the shares  
15 Bottom of page 70.  
16 A. Bottom of page 70.  
17 MR. BLOOR: Jon, you have two copies  
18 there. Can I use the bottom one?  
19 A. Is the part -- this is the part of the  
20 information memorandum that speaks about the  
21 seven years? Mr. Walsh?  
22 Q. I just want to make sure you have the  
23 right page.  
24 Do you have you have page 70? Do you see  
25 70 at the bottom?

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1 CONFIDENTIAL -- Claudio Khamis  
2 A. Yeah.  
3 Q. And do you see dividends, the very  
4 last section? It reads the bank will undertake.  
5 Do you see that?  
6 A. No dividends other than the permitted  
7 dividends shall be paid on the shares?  
8 Yeah, I did. I see this.  
9 Q. Did you review that section of the  
10 information memorandum when you reviewed it in  
11 2010?  
12 A. I remember the part of the information  
13 memorandum that stated that no dividends would  
14 be paid until bondholders would get paid or  
15 seven years or something -- the amount of years.  
16 There was a very specific condition that was --  
17 Q. Can you turn to page 32?  
18 Do you see the definition of permitted  
19 dividend at the bottom that page?  
20 Is that what you're referring to that you  
21 reviewed in 2010?  
22 A. Yes. This seems like the part I saw.  
23 Q. You read that section of the  
24 information memorandum prior to purchasing the  
25 bonds of BTA in 2010?



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1 CONFIDENTIAL -- Claudio Khamis  
2 A. Mr. Walsh, I think we reviewed  
3 yesterday my history, the timeline of my  
4 purchases. There were purchases made prior to  
5 the available of the information.  
6 What is your question?  
7 Q. So you're right. There are purchases  
8 of TuranAlem. I'm not talking about them, not  
9 the predecessor bonds.  
10 A. I hope you're not trying to mislead  
11 me --  
12 Q. We have the chart, Mr. Khamis --  
13 A. Because it was very extensive  
14 yesterday when I referred to myself about how  
15 the information memorandum portrayed, discloses  
16 that in which they wouldn't pay themselves  
17 dividends or distributions if bondholders were  
18 not paid on some terms, and it was under some  
19 small provisions.  
20 I don't recall. I didn't memorize the  
21 information memorandum, and there were two parts  
22 of the information memorandum to -- that were  
23 very relevant. This for the commitment that the  
24 bank made to bondholders and the seriousness of  
25 the undertaking, and capitalization of the bank,

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1 CONFIDENTIAL -- Claudio Khamis  
2 and the way the recovery units worked, because  
3 we couldn't understand them, and I explained  
4 that yesterday thoroughly.  
5 Q. We did talk about your purchases  
6 yesterday. There were purchases of TuranAlem in  
7 August and also in September 2011 of  
8 TuranAlem --  
9 A. There were purchases yesterday. I  
10 don't recall the dates, prior to the information  
11 memorandum and after.  
12 Q. They were not. This information  
13 memorandum was issued in June of 2010, so --  
14 A. What are you --  
15 Q. Let me ask my question --  
16 A. I didn't understand your question.  
17 Q. Well, let me ask.  
18 Did you review the information memorandum  
19 before you made those purchases of TuranAlem in  
20 August of 2010?  
21 A. I don't recall the timeline of -- of  
22 when -- I don't recall the dates of this, and I  
23 would have to look at the purchases. The  
24 purchases were made after the release of the  
25 information memorandum, is yes, the answer.

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1 CONFIDENTIAL -- Claudio Khamis  
2 Q. They are all after June 2010.  
3 So is it your understanding that you  
4 reviewed --  
5 MR. BLOOR: He just said he doesn't  
6 remember when I saw that, so --  
7 MR. WALSH: That's a pretty  
8 important point here.  
9 Q. So I'm trying to find out when you  
10 looked at it. Your case is based on --  
11 Let me just ask my question.  
12 What did you look at prior to making  
13 purchases of TuranAlem bonds in August of 2010?  
14 A. We look at the list of dates --  
15 Q. That's not going to help you, because  
16 TuranAlem bonds are not listed there. If you  
17 want me to find the exhibit, the account  
18 statement from UBS --  
19 But I represent to you there were in August  
20 of 2010 --  
21 A. I read the information memorandum, and  
22 it was brought to me -- I would say, in a fairly  
23 expeditious way. There was not a gap in which I  
24 was dis-informed about it.  
25 Q. So it's your understanding that you

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1 CONFIDENTIAL -- Claudio Khamis  
2 reviewed the information memorandum before  
3 August of 2010, issued in June --  
4 A. I don't recall exact dates.  
5 What I recall is that as soon as the  
6 information memorandum was available, I reviewed  
7 it, and that I paid special attention to two  
8 parts that were relevant to me and caught my  
9 attention.  
10 Q. Can you turn to page 154?  
11 A. 154?  
12 Q. Correct.  
13 The bottom of the page there's a discussion  
14 about Samruk-Kazyna's acquisition and their  
15 involvement in the BTA restructuring.  
16 Do you see at the bottom of page,  
17 Mr. Khamis, it reads:  
18 In order to provide additional liquidity to  
19 the bank, Samruk-Kazyna agreed to issue the SK  
20 bonds and sell them to the bank in exchange for  
21 the bank bonds.  
22 Did you review this section of the  
23 information memorandum before your purchases of  
24 TuranAlem and BTA bonds?  
25 A. I couldn't be clear if I reviewed this

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1 CONFIDENTIAL -- Claudio Khamis  
2 or not.  
3 What I -- what I know for sure is that if I  
4 reviewed it, it wouldn't have caught my  
5 attention, because it doesn't refer here to any  
6 operation to the detriment of the capital of the  
7 bank.  
8 Q. Can you turn to page 175?  
9 A. 175? Excuse me, you said 175?  
10 Q. 175, please.  
11 Do you see the section entitled liquidity  
12 support?  
13 A. Yes.  
14 Q. Did you review this section of the  
15 information memorandum prior to your purchase of  
16 TuranAlem and BTA bonds?  
17 MR. BLOOR: Objection to the form.  
18 Q. Did you review this ever?  
19 MR. BLOOR: Ever?  
20 A. Eventually, yes.  
21 Q. Did you review it before August of  
22 2010?  
23 A. Excuse me?  
24 Q. Did you review this section of the  
25 information memorandum --

1 CONFIDENTIAL -- Claudio Khamis  
2 Q. Do you remember?  
3 A. Depends on the quality of information  
4 I'm trying to process and what I'm thinking  
5 about it and the depth of the analysis. It's --  
6 I couldn't tell you exactly.  
7 Q. Do you remember, with respect to this  
8 document, this information memorandum, how long  
9 it took you to review the sections that you  
10 reviewed?  
11 A. I don't recall.  
12 But I recall paying very close attention to  
13 this stuff I reviewed, especially the two  
14 sections that caught my attention.  
15 Q. Can you turn to the end of the  
16 document? It's page 659. 659.  
17 A. 659?  
18 Q. Correct.  
19 A. Yes.  
20 Q. The next page is F-1.  
21 Do you see that?  
22 A. Yes.  
23 Q. These are the financial statements for  
24 the year ended December 31, 2008, and the  
25 nine-month period ended September 30th of 2009.

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1 CONFIDENTIAL -- Claudio Khamis  
2 Let me finish.  
3 -- before August 2010?  
4 A. I reviewed it as soon -- if I did it,  
5 I reviewed the information memorandum as soon as  
6 I had it available or close to the dates of  
7 release on being made public.  
8 Q. You did not review the entire  
9 document?  
10 MR. BLOOR: Objection.  
11 A. I would have flipped over to  
12 sections that could have caught my attention,  
13 but really, I mean, the only two pieces that  
14 caught my attention are the ones I clearly  
15 recall.  
16 Q. How long did it take you to flip  
17 through the document?  
18 A. I don't recall. I mean, it depends.  
19 Q. Minutes or hours?  
20 A. No, more than minutes. Probably less  
21 than hours.  
22 Q. Between -- less than an hour?  
23 A. I -- I don't recall. I could be stuck  
24 with a page and thinking about a page for more  
25 than an hour, maybe a whole afternoon.

1 CONFIDENTIAL -- Claudio Khamis  
2 Did you review these financial statements  
3 prior to August of 2010?  
4 MR. BLOOR: Objection.  
5 A. I may have had a general look.  
6 Usually, when you have a bank in distress or  
7 under a situation, or that the situation that  
8 the government portrayed at the time of massive  
9 losses, past information is not particularly  
10 relevant.  
11 Like, past information in the Enron case or  
12 the previous quarter of the collapse of the  
13 sub-prime, because that's when people realized,  
14 markets realized that the information was not  
15 right.  
16 Q. Do you recall reviewing any other  
17 section of the information memorandum, other  
18 than the ones that we've talked about?  
19 MR. BLOOR: Objection.  
20 A. As I said, I don't have clear  
21 recollections about what else.  
22 Risk factors, I recall, now that you  
23 mentioned them. Not with clarity, but what I  
24 recall about the risk factors is that I didn't  
25 see anything that would capture my attention in

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1 CONFIDENTIAL -- Claudio Khamis  
2 any particular way.  
3 (Whereupon, Khamis Exhibit  
4 Number 44, a UBS statement, was marked  
5 for identification as of this date.)  
6 Q. Exhibit 44 is the January --  
7 A. I'm sorry, are we done with this?  
8 Q. Yes.  
9 Exhibit 44 is the January 2010 statement  
10 for Atlantica, Mr. Khamis.  
11 A. Can you put this somewhere else --  
12 Q. If you turn to page 8 of 12 of this  
13 document, you'll see we have you trading in  
14 Tristan Oil in this month. It reflects  
15 purchases in 2009 of the Tristan Oil bonds.  
16 Does that refresh your recollection as to  
17 when you took a position in Tristan Oil?  
18 A. I would have to look at the entire  
19 statements and go through it to see when was the  
20 first purchase.  
21 Q. But again, though, UBS statements  
22 accurately reflect your trades?  
23 A. Sure, they do.  
24 I think you just said that you didn't have  
25 the information about my Tristan Oil

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1 CONFIDENTIAL -- Claudio Khamis  
2 transactions, and there you go.  
3 Q. I have some, not all.  
4 A. I don't -- I don't have all of them in  
5 my head.  
6 (Whereupon, Khamis Exhibit  
7 Number 45, a UBS statement, was marked  
8 for identification as of this date.)  
9 Q. Exhibit 45 is a UBS report that you  
10 produced, Mr. Khamis. It's on a number of  
11 companies but also Tristan Oil.  
12 Do you see on the first page that UBS is  
13 reporting that Tristan Oil missed its coupon  
14 payments?  
15 MR. BLOOR: Objection.  
16 You can answer.  
17 A. Yeah, I see.  
18 Q. Does this refresh your recollection as  
19 to when you got involved in the steering  
20 committee with Tristan Oil?  
21 MR. BLOOR: Objection.  
22 A. No.  
23 I see the date is 2009. It was later than  
24 that.  
25 THE WITNESS: I want to go to the

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1 CONFIDENTIAL -- Claudio Khamis  
2 bathroom.  
3 MR. WALSH: Okay. We can take a  
4 break.  
5 THE VIDEOGRAPHER: The time is  
6 11:14. We are going off the record.  
7 (Whereupon, a brief recess was  
8 taken.)  
9 (Whereupon, Khamis Exhibit  
10 Number 46, email, was marked for  
11 identification as of this date.)  
12 (Whereupon, Khamis Exhibit  
13 Number 47, email, was marked for  
14 identification as of this date.)  
15 THE VIDEOGRAPHER: The time is  
16 11:25. We are back on record.  
17 Q. Mr. Khamis, I've handed you two  
18 exhibits. 46 is an email from Mr. Izzo to you,  
19 dated June 2009, and 47 is an email from  
20 Mr. Kiblsky -- from April 2012. Let me deal  
21 with 46, first. This is an about Tristan Oil  
22 and its corporate structure.  
23 Do you recall receiving this email?  
24 A. I don't have clear recollections of  
25 receiving it, but if it was sent to me, I

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1 CONFIDENTIAL -- Claudio Khamis  
2 received it.  
3 Q. Did you have discussions with Mr. Izzo  
4 about Tristan?  
5 A. I don't recall what I could have  
6 talked with Izzo about Tristan.  
7 Q. At this time, were you involved with  
8 the steering committee of Tristan Oil?  
9 A. Again, it's 2009. I don't think -- I  
10 don't think so.  
11 It was about a month from my daughter was  
12 being born. I was focused on my daughter at the  
13 time.  
14 Q. Let's take a look at Exhibit 47.  
15 A. Excuse me?  
16 Q. The next exhibit, 47.  
17 A. Can we put this away?  
18 Q. Yes.  
19 Let me know when you've read that.  
20 (Whereupon, the Witness complied  
21 with the request.)  
22 A. Yes.  
23 What is the question?  
24 Q. Does this refresh your recollection  
25 when you were involved with the Tristan Oil

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1 CONFIDENTIAL -- Claudio Khamis  
2 steering committee?  
3 A. No.  
4 Q. Did you make a trade in Tristan Oil in  
5 April of 2012?  
6 A. I don't -- I don't recall the dates of  
7 my Tristan transactions. If it's in the  
8 statements, the statement of the bank are  
9 accurate.  
10 Q. Are you familiar with a company called  
11 NutriTek?  
12 A. Yeah. This was a company that Patrick  
13 had knowledge about it. I don't -- I don't  
14 recall about investments for NutriTek.  
15 Q. Did you invest in NutriTek?  
16 A. I think I did.  
17 Q. Do you recall how big your investment  
18 was?  
19 A. I don't think it was big at all,  
20 relative to the rest of portfolio.  
21 Q. What happened to your NutriTek  
22 investment?  
23 A. I don't recall, but I think I lost  
24 money on this one.  
25 Q. Did you engage counsel to assist you

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1 CONFIDENTIAL -- Claudio Khamis  
2 in collecting on the NutriTek investment?  
3 A. If it was probably the whole amount of  
4 the investment would have been like the first  
5 billing for counsel.  
6 Q. Are you familiar with a firm called  
7 Egorov Puginsky?  
8 A. No.  
9 (Whereupon, Khamis Exhibit  
10 Number 48, an invoice, was marked for  
11 identification as of this date.)  
12 Q. What exhibit were you looking at?  
13 Let's hold off, because it's killing me --  
14 I've handed you Exhibits --  
15 MR. WALSH: 46?  
16 THE REPORTER: Yeah. 46 is an  
17 email, 47 is an email, 48 is --  
18 Q. Sorry.  
19 48 is a bill from the law firm Egorov  
20 Puginsky.  
21 Is that your signature at the bottom?  
22 A. Yes, it is.  
23 Q. Does that refresh your recollection as  
24 who that law firm is?  
25 A. No.

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1 CONFIDENTIAL -- Claudio Khamis  
2 Q. Do you know if they were engaged to  
3 the assist you in the NutriTek matter?  
4 A. I don't -- I don't recall NutriTek.  
5 It was an investment that -- it was something  
6 that Patrick would know more, way more about it,  
7 and I don't even recall if it was stock or bond.  
8 I mean . . .  
9 Q. It says LPN debt of NutriTek.  
10 Do you know what LPN is?  
11 A. LPN?  
12 Q. Do you see on the document, LPN?  
13 A. I don't recall.  
14 MR. WALSH: Let me mark another  
15 exhibit.  
16 (Whereupon, Khamis Exhibit  
17 Number 49, a budget and financial  
18 statement, was marked for identification  
19 as of this date.)  
20 Q. Exhibit 49, Mr. Khamis, was produced  
21 to us in native format. That's why it doesn't  
22 have Bates numbers.  
23 It appears to be a budget for NutriTek  
24 2012.  
25 A. Yes.

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1 CONFIDENTIAL -- Claudio Khamis  
2 And it seems there was more people involved  
3 in this, no?  
4 Q. Right.  
5 Do you know any of these other names?  
6 A. Besides Atlantica, you mean or what?  
7 Q. Besides Atlantica.  
8 A. And Blu and the plaintiffs  
9 This is what your question is?  
10 Q. There's a chart that has a list of  
11 NutriTek transfers to clients.  
12 A. This here?  
13 Q. Yes, and you see Atlantica listed  
14 there?  
15 A. Yes.  
16 Q. And Atlantic has, \$28,000 as a  
17 transfer to Atlantica?  
18 A. To Atlantica?  
19 Q. It says NutriTek transfers to client,  
20 and --  
21 A. Than it wasn't that bad of an  
22 investment.  
23 I don't have recollections of it.  
24 Q. Do you recall whether you or  
25 Mr. Kiblisky on your behalf or on behalf of

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1 CONFIDENTIAL -- Claudio Khamis  
2 Atlantica Holdings put together a litigation  
3 committee to recover for NutriTek?  
4 A. No.  
5 MR. BLOOR: Just let him finish the  
6 question.  
7 Q. What was the law firm doing for --  
8 MR. BLOOR: Objection.  
9 A. I don't recall.  
10 Q. Mr. Kiblsky, did you have any  
11 discussion with Mr. Kiblsky about hiring a law  
12 firm to pursue a recovery on the NutriTek  
13 investment?  
14 MR. BLOOR: Objection.  
15 A. I -- I most likely was -- I don't want  
16 to use the word invited or given the chance to  
17 participate in a recovery effort led by somebody  
18 else, but I don't have major recollections of  
19 that.  
20 What I remember of NutriTek, is that it  
21 went, it was a bad investment, I lost money, but  
22 I don't have a recollection of how it turned in  
23 the end, what I received.  
24 What I remember, as I told you before, that  
25 it was not a significant investment within the

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1 CONFIDENTIAL -- Claudio Khamis  
2 portfolio.  
3 Q. Have you hired lawyers -- we talked  
4 about Tristan, and we talked about NutriTek, and  
5 we obviously talked about this case.  
6 Have you hired lawyers to assist you in the  
7 recovery of your investments through litigation  
8 in other matters?  
9 A. Can you repeat the question?  
10 Q. Sure. We've talked about Tristan,  
11 we've talked about this case --  
12 A. Yeah, but you're talking about --  
13 What's the question?  
14 Q. So have you hired lawyers to assist  
15 you in recovery of your investments through  
16 litigation in other matters?  
17 A. You're talking about financial  
18 securities?  
19 Q. Yes.  
20 A. Not that I recall at this moment.  
21 Q. Have you ever been involved in  
22 litigation before this case?  
23 A. Like in big financial centers?  
24 Q. Yeah, in any context.  
25 A. Listen, you're just throwing me this

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1 CONFIDENTIAL -- Claudio Khamis  
2 that I wasn't even aware of.  
3 Eventually, eventually, yes.  
4 But I don't have any recollection of such a  
5 major legal activity, for sure, not like this  
6 case.  
7 Q. Have you ever been arrested?  
8 A. No.  
9 Q. Have you ever been a defendant in a  
10 lawsuit?  
11 A. Not that I recall.  
12 Q. Let's take a look at right here the  
13 amended complaint. I'll make your life easier.  
14 The amended complaint contains a number  
15 of -- this is the amended complaint in the  
16 Samruk-Kazyna case, filed in April 2013, and the  
17 complaint contains a number of allegations  
18 regarding SK Funds sovereign immunity agreement.  
19 Are you familiar with that issue?  
20 A. Yes.  
21 Q. And the lawyers, on your behalf,  
22 revised the complaint and included in  
23 paragraph 19 of this amended complaint a number  
24 of allegations regarding SK Funds' conduct in  
25 the United States. I would just ask you to look

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1 CONFIDENTIAL -- Claudio Khamis  
2 at that. If you could go through, bullet by  
3 bullet, the basis for that allegation.  
4 A. The first bullet seems like very legal  
5 terms.  
6 MR. BLOOR: I'm sorry, what page are  
7 you reading from?  
8 THE WITNESS: 8.  
9 MR. WALSH: Paragraph 19.  
10 Q. What is the first bullet?  
11 A. As part of the 2010 restructuring at  
12 SK's direction, BTA Bank issued inter alia --  
13 Which I don't know what it means.  
14 -- senior dollar notes, dollar original  
15 issue discount notes, and dollar subordinated  
16 notes, such as dollar subordinated notes, the  
17 subordinated notes. All of these notes were  
18 denominated in US dollars.  
19 Q. What's the basis for that allegation?  
20 A. That they were issue and denominated  
21 in dollars? What it says here.  
22 Q. What does the second bullet, and you  
23 can paraphrase?  
24 Please talk a little bit slower so Apryl  
25 can take this down.



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1 CONFIDENTIAL -- Claudio Khamis  
2 A. What do you want me --  
3 Q. What is the basis for the second  
4 bullet?  
5 A. The information memorandum provided  
6 that the principal and interest payments on all  
7 of the securities including subordinated notes  
8 at issue here were made to payee at the payee  
9 bank in New York City.  
10 Q. What is the basis for that allegation?  
11 A. That the -- that, as it says here, the  
12 information memorandum provided that the  
13 principal and interest payments on the  
14 securities was to be made in a bank in -- made  
15 at payee's bank in New York City.  
16 Q. Do you have an understanding for what  
17 the basis of that allegation is?  
18 Let me ask a different question.  
19 Were you involved in drafting that  
20 paragraph?  
21 A. Lawyers do the legal work.  
22 Q. There are other allegations here about  
23 BTA and SK Funds' activities in the United  
24 States.  
25 Do you have an understanding of what the

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1 CONFIDENTIAL -- Claudio Khamis  
2 basis for these allegation is?  
3 MR. BLOOR: You have to give him the  
4 document. I don't have the document.  
5 You don't have your own copy? You're  
6 using the exhibit?  
7 MR. WALSH: I'll read it.  
8 Q. Following the 2010 restructuring, BTA  
9 Bank and SK Funds' representatives traveled to  
10 the United States to meet with investors and  
11 describe the bank's activities.  
12 What is the basis for that allegation?  
13 A. This was about information that was  
14 available at the time. I don't remember the  
15 information and the sources of information and  
16 they discussed with my lawyer at the time.  
17 Q. Is that true for the other bullets?  
18 A. No. There are statements here that I  
19 recollect exactly what they were made.  
20 The SK Fund made false and misleading  
21 statements. I explained those statements very  
22 thoroughly to Mr. Jaffe.  
23 Q. What about the subsidiary?  
24 SK Fund established a subsidiary for  
25 purposes of marketing SK Funds' interest.

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1 CONFIDENTIAL -- Claudio Khamis  
2 What's the basis for that allegation?  
3 A. I would have to ask my lawyer what the  
4 working paper, what they are at the time.  
5 And the second point that at SK Funds'  
6 direction, BTA defaulted. It's a fact.  
7 Q. That's based on your discussions with  
8 Mr. Jaffe?  
9 A. The second point?  
10 Q. Yes.  
11 A. The second point, I think, is the  
12 facts of the history of the developments.  
13 Q. Let me ask another set of questions.  
14 Have you ever met anyone from SK Fund?  
15 A. No. From SK Fund, no.  
16 Q. And prior to this case, when you filed  
17 it in December 2012, have you ever met anyone  
18 from BTA Bank?  
19 A. No.  
20 Q. Your claim in the damages part of the  
21 this case is that you're entitled to nine  
22 percent interest.  
23 What is that claim based on?  
24 MR. BLOOR: Objection.  
25 A. I think discussions about damages --

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1 CONFIDENTIAL -- Claudio Khamis  
2 MR. BLOOR: Don't reveal anything  
3 you learned from your lawyer explaining  
4 it to you.  
5 THE WITNESS: Perfect.  
6 MR. WALSH: Well, you've been  
7 noticed as a witness --  
8 MR. BLOOR: It is an operation of  
9 New York law, and I'm not sure what  
10 you're getting it.  
11 MR. WALSH: He's the corporate  
12 representative, so I'm trying to  
13 understand why he thinks New York law  
14 applies to his claim.  
15 If he can't answer that's fine.  
16 THE WITNESS: I get legal advice,  
17 Jonathan. If I could write all this and  
18 present myself in front of the judge, I  
19 wouldn't be spending money on lawyers.  
20 Q. So you don't have an understanding of  
21 what the nine percent claim is based on?  
22 MR. BLOOR: Objection.  
23 A. I know it has a legal basis. I don't  
24 know all the legal -- laws behind it. I didn't  
25 study law.

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1 CONFIDENTIAL -- Claudio Khamis  
2 (Whereupon, Khamis Exhibit  
3 Number 50, a steering committee meeting  
4 minutes, was marked for identification as  
5 of this date.)  
6 Q. Exhibit 50, Mr. Khamis, was filed by  
7 your lawyers in the case. It's the March 2012  
8 PowerPoint that's referenced in the complaint  
9 that we were looking at. Your entities,  
10 Atlantica, Baltica, and Blu Funds, did not  
11 produce a copy of this presentation.  
12 Do you recall receiving this presentation  
13 in March of 2012?  
14 A. I'm pretty sure I received it at some  
15 point.  
16 Q. Do you recall when you received it?  
17 A. No. I don't have an exact  
18 recollection of when I received it. This --  
19 where --  
20 What is the date on this?  
21 Q. If you look at the cover page, it's  
22 entitled steering committee meeting, March 19,  
23 2012.  
24 A. According to the timeline, this is  
25 previous to the 2012 restructuring.

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1 CONFIDENTIAL -- Claudio Khamis  
2 When was the 2012 restructuring? Mid year?  
3 Q. Let me just -- just so you have the  
4 context, the event of a restructuring was  
5 announced in December of 2011, and there were  
6 discussions about the 2012 restructuring  
7 throughout the year in 2012.  
8 A. And when was the date it was released?  
9 Q. The terms were announced in the  
10 documents that we reviewed early in  
11 October 2012. And this is one of the  
12 presentations you've included in your complaint.  
13 What I'm trying to understand is did you  
14 review this after the filing of the complaint or  
15 in March of 2012?  
16 A. No. I think the filing of the  
17 complaint was way later, and I was receiving all  
18 this information when I was investing in the  
19 bonds.  
20 Q. So it's your understanding that you  
21 received this March presentation before  
22 purchasing additional notes in 2012?  
23 A. Again, I would have to know when it  
24 was issued. But usually, I would get this very  
25 shortly after it would be issued or publicized

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1 CONFIDENTIAL -- Claudio Khamis  
2 on the web page.  
3 We were following the events as they were  
4 unfolding and trying to make sense of it all  
5 along.  
6 Q. Did you look at it on the screen, or  
7 did you print it out?  
8 A. I don't recall.  
9 Q. And did you review the presentation  
10 page for page?  
11 A. Most likely.  
12 Q. And for what purpose?  
13 A. For the purpose of being informed.  
14 Q. I want to show you one more  
15 presentation. I just have to grab it.  
16 MR. WALSH: We'll go off the record.  
17 THE VIDEOGRAPHER: The time is  
18 11:48. We're going off the record.  
19 (Whereupon, a brief recess was  
20 taken.)  
21 \* \* \* \* \*  
22 \* \* \* \* \*  
23 \* \* \* \* \*  
24 \* \* \* \* \*  
25 \* \* \* \* \*

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1 CONFIDENTIAL -- Claudio Khamis  
2 (Whereupon, Khamis Exhibit  
3 Number 51, email and presentation, was  
4 marked for identification as of this  
5 date.)  
6 THE VIDEOGRAPHER: The time is  
7 11:59. We are back on the record.  
8 Q. Mr. Khamis, I've handed you what's  
9 been marked Exhibit 51. It's an email from Igal  
10 Yacher that was emailed to undisclosed  
11 recipients, but this is an email that you  
12 produced, so you received it. It's a  
13 presentation from January. It's the  
14 presentation that's cited in the complaint.  
15 Do you recall this email?  
16 A. Yes, I remember this email.  
17 Q. And what is Mr. Yacher telling you  
18 here?  
19 A. That today a presentation came out of  
20 the bank for the meeting, January 26th.  
21 According to his analysis, it doesn't add any  
22 value. That's also where they announced that  
23 two resignations, one about the CEO of the bank  
24 for health reasons, and the other one the  
25 director of the Sovereign Wealth Fund. This

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1 CONFIDENTIAL -- Claudio Khamis  
2 latter seems to be because he was -- he was not  
3 agreeing with the no payment of the obligations  
4 of the bank, so --  
5 Q. And -- go ahead.  
6 A. Please go ahead.  
7 Q. Did you have a reaction when you  
8 received this?  
9 A. Probably my reaction was positive.  
10 When you see people arguing that a liability  
11 should be paid and they are disagreeing with the  
12 no payment of liabilities.  
13 Q. You knew at this time that the  
14 recovery units that you held could be  
15 accelerated on the balance sheet; correct?  
16 A. No. At the time -- at the time we  
17 knew that they recognized them as a liability.  
18 The amount of the liability was not clear to us,  
19 how they came about it. It doesn't make any  
20 sense. The same way as I said yesterday, it  
21 didn't make any sense for a segregated asset put  
22 under a trust deed in Bank of New York outside  
23 Kazakhstan. I mean, everything seems to be very  
24 Kosher at the time. There was -- we couldn't  
25 understand the -- the concept of segregation and

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1 CONFIDENTIAL -- Claudio Khamis  
2 trust deed. Segregation is, by definition,  
3 off-balance-sheet, and then you have it  
4 on-balance-sheet.  
5 And JP Morgan, in 2011 when they issued  
6 their report, even though they acknowledge it,  
7 they say that it's -- what I recall is that to  
8 them it didn't make much sense either, and that  
9 it's served for the purpose of decreasing the  
10 capital or affecting the capital, which the  
11 wording, to me, seems that was very special,  
12 because why would some action be put in place to  
13 serve a decrease in capital? Probably I've  
14 never heard it again in my life.  
15 Q. When you saw the JP Morgan report in  
16 2011, May of 2011, did you go back to the  
17 information memorandum and try to understand why  
18 the auditors had put the recovery units on the  
19 balance sheet?  
20 A. I don't recall exactly what there  
21 first were made to analyze that, but there were  
22 made efforts to analyze that, and the conclusion  
23 was it was completely contradictory with the  
24 effort done by the government of Kazakhstan  
25 through Samruk-Kazyna to fix the bank, support

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1 CONFIDENTIAL -- Claudio Khamis  
2 the bank, and --  
3 The main point here is, again, segregation  
4 is segregation, so segregated as put into a  
5 trust deed off-balance-sheet. It never made any  
6 sense.  
7 Q. You were the owner of recovery units  
8 in 2011 and 2012?  
9 A. Correct.  
10 Q. Did you consider including your losses  
11 on recovery units in your complaint against the  
12 fund?  
13 MR. BLOOR: Objection.  
14 A. I don't remember what the talks with  
15 my lawyer were at the time regarding this issue.  
16 Q. You have not sought damages for the  
17 losses you suffered on the recovery units in  
18 this case; correct.  
19 A. Correct.  
20 Q. And if the units were accelerated in  
21 the 2012 restructuring, you would have benefited  
22 by having the recovery units paid on; correct?  
23 A. This is highly questionable.  
24 Q. Why do you say that?  
25 A. Because the recovery units were a pool

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1 CONFIDENTIAL -- Claudio Khamis  
2 of assets from the bank, from the restructured  
3 bank, segregated from the balance sheet, that  
4 were living on its own faith, and the assets  
5 were what they were, the recovery units, and if  
6 they were to be recovered they will be split at  
7 50-50 after certain main provisions.  
8 And it was very well regulated, what we got  
9 at the time from the information memorandum. We  
10 were very satisfied with what we read at the  
11 time, and it was never contradicted or, at  
12 least, that we could -- we could never clarify  
13 those contradictions on the loan.  
14 Q. Did you try to understand what you  
15 call the inconsistencies, the contradictions?  
16 A. Of course I did.  
17 Q. And what did you look at to try to  
18 resolve --  
19 A. Every available information that I had  
20 handy and try to make sense out of it.  
21 Q. And you were talking to the Vision  
22 folks in 2011 about this issue as well?  
23 A. I don't remember who I was talking.  
24 At the time, the analysis on the big things is  
25 always done by me.

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1 CONFIDENTIAL -- Claudio Khamis  
2 Yes, may take or I get available  
3 information and, like, Patrick would send me  
4 something or bring me something; Poe would send  
5 me something without even soliciting, and I  
6 would look at it and assess the importance.  
7 Q. Did you recover any money on the  
8 recovery units?  
9 A. The recovery units got exchanged was  
10 the total value of the package was around \$0.14,  
11 and our average price for purchasing them was  
12 below that, so there was a profit that we deemed  
13 that was a very poor result. We would have  
14 waited for the recoveries all along.  
15 We didn't see with good eyes when the  
16 recoveries were brought back as an  
17 on-balance-sheet item and put at the disposal of  
18 the administration.  
19 We were pleased that they were put under a  
20 trust deed at Bank of New York and segregated  
21 from the bank.  
22 Q. In the course of 2011, did the  
23 recovery units pay any distribution?  
24 A. I don't recall ever seeing any  
25 distribution in, to my bank account from

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1 CONFIDENTIAL -- Claudio Khamis  
2 recovery units.  
3 Q. Did you ask UBS about that?  
4 A. I would be informed if something would  
5 come in.  
6 But our position, recovery notes, was that  
7 we wanted to recovery what was in the trust  
8 deed, and shortly after the recovery units were  
9 taken from our possession for a package that  
10 gave us only \$0.14, a person called Howell in  
11 London and the web page of BTA Bank, if I don't  
12 recall wrongly, publicized the massive billions  
13 of recoveries, of assets, belonging to Ablyazov  
14 and his wife.  
15 So this confirmed what we always believed,  
16 that the assets were -- didn't vanish, that the  
17 assets were somewhere to be found and . . .  
18 Q. And you're not seeking damages on your  
19 losses on the recovery units in this case;  
20 correct?  
21 A. The losses, we are presenting, once we  
22 are presenting in our allegations.  
23 Q. In the amended complaint we just  
24 reviewed?  
25 A. Yes, yes.

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1 CONFIDENTIAL -- Claudio Khamis  
2 There is facts, and my lawyer advised me to  
3 do so. I would do what my lawyers advised me  
4 to.  
5 Q. Have you seen any of the documents  
6 that were taken out of the Kazaward database by  
7 your lawyers?  
8 MR. BLOOR: Objection.  
9 A. I have seen documents, but I don't  
10 know where they came -- where they come from. I  
11 have seen. In my fact-finding efforts. I don't  
12 know -- I couldn't tell you --  
13 I don't know the Kazaward database.  
14 Q. Did you instruct Mr. Littleton to stop  
15 reviewing the Kazaward database at some point?  
16 MR. BLOOR: Objection.  
17 A. I think this is a conversation that my  
18 lawyers has between them. We are trying to be  
19 very strict and compliant by the rules.  
20 Q. Going back to your meeting with  
21 Mr. Ablyazov during this year, did he provide  
22 you any documents during either of those  
23 meetings?  
24 A. No.  
25 Q. Did he direct you to people to talk to

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1 CONFIDENTIAL -- Claudio Khamis  
2 about the BTA case?  
3 A. No.  
4 Q. And are you continuing to have  
5 discussions with Mr. Ablyazov about BTA?  
6 MR. BLOOR: Objection.  
7 You can answer.  
8 A. Do I have to tell you what my plans  
9 for the future are? Is it part of this --  
10 Q. You can either answer the question,  
11 you cannot answer the question --  
12 A. I'm asking you -- I want to know --  
13 Q. I'm not your lawyer.  
14 You can either answer the question or not  
15 answer the question. I don't know why you  
16 wouldn't answer the question, but --  
17 MR. BLOOR: Can you just repeat the  
18 question?  
19 Q. Did you have plans to meet with  
20 Mr. Ablyazov again?  
21 A. As of today, I don't have any plans.  
22 Q. Do you have any plans to meet with  
23 Mr. Stati again about Tristan Oil?  
24 A. As of today, I don't have any plans.  
25 Q. Is it your view that Mr. Ablyazov was

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1 CONFIDENTIAL -- Claudio Khamis  
2 unfairly treated in the BTA proceedings against  
3 him?  
4 MR. BLOOR: Objection.  
5 You can answer.  
6 A. I don't know much about Mr. Ablyazov.  
7 What I know is that the investments of the  
8 big majority of the investments that were  
9 portrayed to be embezzlement were investment  
10 into real estate in Moscow, and Moscow is ruled  
11 by Putin, who is a very close ally of  
12 Mr. Nazarbayev.  
13 So I don't -- it doesn't add to the  
14 official story. I wouldn't say that I can make  
15 a judgment on -- I don't have the -- all the  
16 facts. There is just too much information.  
17 Q. Have you read any of the complaints  
18 against Mr. Ablyazov in either the UK proceeding  
19 or any of the other proceedings?  
20 A. I told you, I had some documents that  
21 I remember that were from a U.K. court about the  
22 Lewis Report. I don't remember much about them.  
23 (Whereupon, Khamis Exhibit  
24 Number 52, a complaint, was marked for  
25 identification as of this date.)

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1 CONFIDENTIAL -- Claudio Khamis  
2 Q. Mr. Khamis, this is Exhibit 52. It's  
3 the complaint that we, our law firm, filed on  
4 behalf of the Republic of Kazakhstan against  
5 Mr. Kulibayev and Mr. Khrapunov.  
6 Are you familiar with either of those  
7 individuals?  
8 A. Yeah, Mr. Khrapunov, I know who he is.  
9 Q. Have you met him?  
10 A. Yes.  
11 Q. What is his relation to Mr. Ablyazov?  
12 A. He is married to the daughter.  
13 Q. He is the son-in-law of Mr. Ablyazov?  
14 A. If he's married to the daughter I  
15 guess you're right.  
16 Q. When did you meet Mr. Khrapunov?  
17 A. I don't remember the exact dates, but  
18 it was -- I was in a call with Mr. Jaffe and his  
19 lawyer.  
20 Q. When was that?  
21 A. I don't remember.  
22 Q. If you turn to the complaint that I've  
23 handed you --  
24 A. This complaint?  
25 Q. Yes.

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1 CONFIDENTIAL -- Claudio Khamis  
2 A. What page?  
3 Q. If you look at the top, it's page 11  
4 of 34.  
5 A. 11 of 34 you want me to go?  
6 Q. Yes.  
7 A. Okay.  
8 Q. There's a reference again to the  
9 Kazaword website.  
10 You've never been on the Kazaword website?  
11 A. No.  
12 Q. And do you know how to find the  
13 Kazaword website on the Internet?  
14 A. If I know how to find it? My --  
15 Google is maybe a good way to find stuff on the  
16 Internet.  
17 Q. You understand it's no longer  
18 available today? It's been taken down.  
19 MR. BLOOR: Objection.  
20 You can answer.  
21 A. I think I heard this. I don't know if  
22 it's still up or they put it up. I just don't  
23 know. I mean, I don't know much about it.  
24 Q. When you met with Mr. Khrapunov --  
25 A. But I know that it was made public for

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1 CONFIDENTIAL -- Claudio Khamis  
2 some significant time  
3 Q. How do you know that?  
4 A. I heard it.  
5 Q. From whom?  
6 A. I don't recall.  
7 Q. Was it in any of your discussions with  
8 Mr. Ablyazov?  
9 A. When -- way prior to Mr. Ablyazov, I  
10 heard that -- that there were documents, but I  
11 didn't know if these are the same refers of the  
12 Kazaword or if there are others. I just  
13 don't -- I'm not that familiar with all the  
14 informations surrounding those press releases.  
15 Listen, I mean, there are documents on the  
16 web or the word documents on the web, that it's  
17 very hard to know what is the sources.  
18 Q. Do you have an understanding that  
19 these documents were obtained through a hacking  
20 exercise of government?  
21 MR. BLOOR: Objection.  
22 You can answer.  
23 A. I don't -- I don't know what the  
24 source of the documents is.  
25 Q. Are you familiar with the phishing



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1 CONFIDENTIAL -- Claudio Khamis  
2 exercise that people use to obtain confidential  
3 information?  
4 Do you know what phishing is, P-H --  
5 MR. BLOOR: Objection.  
6 A. I know fly fishing.  
7 Q. When you met with Mr. Khrapunov, did  
8 you talk about the Kazaword database?  
9 A. My conversations with Mr. Khrapunov  
10 were basically about -- about understanding what  
11 their view was on their events. It was about  
12 fact finding.  
13 I had a lot of questions at the time, after  
14 many years of seeing the developments of  
15 these -- of the two restructuring, especially  
16 what happened after the two restructuring and  
17 how everything ends up in transactions that  
18 don't make any financial or economic sense.  
19 So after reviewing all this, I wanted to  
20 have a conversation and have the chance to learn  
21 from people that were involved -- about another  
22 version, because the official version was just  
23 so inconsistent.  
24 Q. What were your questions to  
25 Mr. Khrapunov?

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1 CONFIDENTIAL -- Claudio Khamis  
2 A. I don't recall. Probably to know what  
3 happened, the expropriation, what was BTA Bank.  
4 They mentioned the ambitions, that they  
5 wanted to be an HSBC for the region. It was --  
6 I mean, it seemed to me it was a very normal  
7 desire for an entrepreneur that is a majority  
8 shareholder of the largest bank in a big  
9 country, a very rich country by its resources.  
10 Nothing that caught my attention, but definitely  
11 the sense is that.  
12 And until today, I haven't seen, even from  
13 what I heard from the Kazakh side, the  
14 embezzlement, the vanishing of the assets. I  
15 mean, the assets are mostly prime real estate in  
16 Russia and land. How do you play around with  
17 land? Land is land. It is there. You cannot  
18 move it.  
19 But these are my personal views, and I  
20 don't want to talk about more, because I think  
21 it goes way beyond the scope of your question.  
22 Q. Do you believe that Samruk-Kazyna was  
23 involved in these fraudulent activities you've  
24 just described?  
25 A. We're alleging fraud in our complaint.

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1 CONFIDENTIAL -- Claudio Khamis  
2 Probably the scope of the fraud is bigger than  
3 the one we're alleging.  
4 Q. In what way?  
5 A. I'd rather make this case in court if  
6 and when. I have to decide if this is about  
7 legal stuff that I'm treating with my lawyers at  
8 the current time.  
9 Q. The purpose of this deposition,  
10 Mr. Khamis, is to understand your allegations  
11 and --  
12 Let me finish.  
13 -- and what you plan to allege at trial.  
14 So please tell me, what are your  
15 allegations of fraud against Samruk-Kazyna?  
16 MR. BLOOR: So I think he just said  
17 that the fraud was bigger than what's  
18 alleged in the complaint, so it's outside  
19 the complaint.  
20 But, I mean, we've just spent two  
21 days talking about the fraud he's  
22 alleging.  
23 MR. WALSH: Right. I'm trying to  
24 understand at trial is he going to allege  
25 the allegations in the complaint or some

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1 CONFIDENTIAL -- Claudio Khamis  
2 other allegations that we don't know  
3 about?  
4 MR. BLOOR: Well, that would be  
5 protected by attorney-client privilege,  
6 so I don't want to discuss what his trial  
7 strategy is going to be.  
8 MR. WALSH: I think we're entitled  
9 to understand what he's going to say at  
10 trial.  
11 MR. BLOOR: You can ask him the  
12 question  
13 Q. What are you intending to say at  
14 trial? What is your allegation against  
15 Samruk-Kazyna at trial with respect to BTA?  
16 MR. BLOOR: Objection to form  
17 A. I can tell you what is as of today in  
18 the complaint, and you have it in front of you.  
19 We can read it together.  
20 I'm not going to discuss with you what my  
21 conversation with my lawyers are.  
22 Q. You are the corporate representative  
23 for Atlantica, Baltica --  
24 A. But still, talks with Atlantica, their  
25 lawyers is privileged. You're alleging

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1 CONFIDENTIAL -- Claudio Khamis  
2 privilege.  
3 Q. No. I am trying to understand what  
4 you're going to say at trial, Mr. Khamis, and  
5 I'm entitled to know what you're going to say at  
6 trial. That's allowed under the US discovery  
7 rules.  
8 So I want to know today, and if it's not  
9 today we can do it another time, what are you  
10 going to testify to at trial regarding  
11 Samruk-Kazyna's involvement in the allegations  
12 that are not included in this complaint? The  
13 allegations you've made to us in our discussions  
14 and this deposition, what are you going to say  
15 is Samruk-Kazyna's involvement in this fraud?  
16 MR. BLOOR: Objection.  
17 Q. Please tell me, or we can come back.  
18 We can do this in a couple months.  
19 A. Probably in a couple months I'm going  
20 to have more clarity about what's going to be in  
21 trial. We're going to have more discovery, more  
22 depositions taken from our side.  
23 We're still in the fact-finding process,  
24 and I think we're entitled to be in the  
25 fact-finding process still.

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1 CONFIDENTIAL -- Claudio Khamis  
2 Q. Well, I'm going to hand over the  
3 questioning, but I'm going to keep the  
4 deposition open until you have a better idea of  
5 what you're going to say at trial about my  
6 client.  
7 MR. WALSH: So we can go off the  
8 record.  
9 THE VIDEOGRAPHER: The time is  
10 12:23. We're going off the record.  
11 (Whereupon, a lunch recess was taken  
12 from 12:23 p.m. to 1:08 p.m.)  
13 (Whereupon, Khamis Exhibit  
14 Number 53, a subpoena, was marked for  
15 identification as of this date.)  
16 THE VIDEOGRAPHER: The time is  
17 1:08 p.m. This begins media number 2.  
18 EXAMINATION  
19 BY JASON VIGNA, ESQ.:  
20 Q. Good afternoon. My name is Jason  
21 Vigna from the Katten Muchin firm representing  
22 the defendant, BTA Bank, JSC. I'd like to, in  
23 some ways, follow up on the questions that my  
24 colleague, Mr. Walsh, has asked you, but I'd  
25 also like to put before you what has been marked

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1 CONFIDENTIAL -- Claudio Khamis  
2 as Khamis Exhibit Number 53.  
3 Do you have that document in front of you?  
4 A. Yes.  
5 Q. And have you seen this document  
6 before?  
7 A. This is the personal subpoena?  
8 MR. BLOOR: Uh-huh.  
9 A. Yes.  
10 Q. Okay. And I think you've already  
11 identified it properly. This is a subpoena that  
12 my firm sent to your attorney very recently, and  
13 it's asking for your personal testimony.  
14 Mr. Walsh has asked for your testimony  
15 earlier today on behalf of the Blu Funds and  
16 Baltica and Atlantica, and I will ask some  
17 follow-up questions.  
18 But pursuant to this subpoena, I also have  
19 the right to ask about your personal knowledge  
20 relevant to this case. It will probably be the  
21 same thing, but I just wanted to make sure that  
22 you understood that I did have the right to ask  
23 about your personal knowledge about the case.  
24 Is that --  
25 Do you understand that?

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1 CONFIDENTIAL -- Claudio Khamis  
2 A. I don't understand much what is the  
3 different between my personal knowledge and the  
4 knowledge I have expressed before, but I will  
5 take you by your word.  
6 MR. BLOOR: Just so you understand  
7 and the record is clear, to the extent  
8 that your answering questions on your  
9 personal knowledge, they are not binding  
10 on the entities. It's your personal  
11 recollection, obviously. Given the ways  
12 the funds are set up, that, like Jason  
13 said, probably won't be much different,  
14 but just so you understand.  
15 Q. All right, Mr. Khamis.  
16 I take it that you not a US citizen?  
17 A. Yes. I'm not a US citizen.  
18 Q. What country are you a citizen of?  
19 A. I'm a citizen of Germany and of Chile.  
20 Q. I take it you are not a US resident?  
21 A. No. I'm not a US resident.  
22 Q. And I think we heard earlier you're  
23 currently a resident of the UK?  
24 A. Yes.  
25 Q. Do you refer to yourself as an

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1 CONFIDENTIAL -- Claudio Khamis  
2 economist?  
3 A. This is what my, I would say what my  
4 university degree was, and when they asked me  
5 about my profession, I think the tools I use,  
6 yes, an economist.  
7 Q. With respect to the Atlantica,  
8 Baltica, and Blu Funds, do you have the sole  
9 decision-making authority for those funds?  
10 A. Yes.  
11 Q. A short while ago I think we saw some  
12 boards of directors of those funds.  
13 Do those funds currently have boards of  
14 directors?  
15 A. Yes.  
16 Q. What role, if any, do they play in the  
17 decision-making on behalf of the funds with  
18 respect to this litigation?  
19 A. None.  
20 Q. Has the sole decision-making authority  
21 been delegated to you by some sort of a  
22 declaration --  
23 A. Power of attorney.  
24 Q. How much money do the three plaintiff  
25 funds have under management?

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1 CONFIDENTIAL -- Claudio Khamis  
2 A. I -- I don't know the answer to --  
3 It's in the statements that you have at  
4 your disposal.  
5 Q. I don't believe that we have any  
6 statements for 2018.  
7 Today, do you have a sense of how much  
8 money those funds have under management?  
9 A. No, I don't.  
10 Q. Are those the primary vehicles through  
11 which you hold your personal wealth, the three  
12 funds?  
13 A. The vehicles today belong to a  
14 foundation, so you have to segregate what I --  
15 what I think as personal or not.  
16 Q. So is what you're saying is that the  
17 equity holders of the three funds are a  
18 foundation that you established?  
19 MR. BLOOR: Objection.  
20 You can answer.  
21 A. I don't recall the -- I don't know how  
22 the exact knowledge in front of me, who  
23 established it, but I made the contribution of  
24 those funds to the foundation, so the origin of  
25 the funds, it's me.

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1 CONFIDENTIAL -- Claudio Khamis  
2 Q. And the beneficiaries of the  
3 foundation are you and your daughter?  
4 A. Correct.  
5 Q. The majority of the investments that  
6 you have made throughout your career, have they  
7 primarily been in the emerging markets, what I  
8 call emerging markets?  
9 A. I would say that's a fair assessment.  
10 Q. And what percentage of the investments  
11 do you think are distressed debt?  
12 A. I don't -- I don't have in my mind a  
13 proportion. I would have to look at the  
14 numbers.  
15 And as I said yesterday, make valuations  
16 that I don't do regularly, because most of the  
17 stuff I invest is to keep it, not to trade it.  
18 Q. Would it be fair to characterize the  
19 investments that you made in BTA as distressed  
20 debt investments?  
21 A. I wouldn't make that -- that call.  
22 The first ones I probably would characterize as  
23 distressed. At the moment, right out of the  
24 restructuring, I wouldn't say it was distressed.  
25 It depends on the different moments. Right

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1 CONFIDENTIAL -- Claudio Khamis  
2 after the first restructuring, it was called a  
3 very successful and, like, a very good process  
4 for the bank, and quasi-sovereign risk and  
5 quasi-sovereign risk of Kazakhstan. I didn't  
6 see it as distressed.  
7 Q. Even the first purchases that you made  
8 of BTA bonds after the restructuring were  
9 purchased at a discount to the face value; is  
10 that correct?  
11 A. The first ones?  
12 Q. Yes.  
13 A. Yes.  
14 Q. All of open market purchases that you  
15 made of TuranAlem or BTA bonds were at discounts  
16 to the face value; correct?  
17 A. That's correct. Some were closer to  
18 the face value, if I recall well, and some of  
19 them were discounted to the face value.  
20 Q. The other investments that we've  
21 discussed over the course of the last day and a  
22 half, you have Maxcom, Tristan Oil, a couple of  
23 the other names are escaping me.  
24 All of those investments were made at  
25 discounts to face value; isn't that correct?

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1 CONFIDENTIAL -- Claudio Khamis  
2 MR. BLOOR: Objection to form.  
3 You can answer.  
4 A. Maxcom? I don't recall exactly the  
5 value of Maxcom. When you buy emerging market  
6 debt, many of it have coupons that are not  
7 significantly higher than the coupons in a  
8 little bit more developed markets, so even if  
9 the issue, some of them trade right above or  
10 right below face value, so it depends on the --  
11 on what is happening with the market and how,  
12 the length of the maturity and the coupon, how  
13 it would trade, so . . .  
14 Q. Do you remember how many  
15 restructurings Maxcom went through?  
16 A. As I mentioned before, Maxcom was an  
17 investment that Patrick Kiblsky understood, and  
18 he had a very good knowledge of the investment.  
19 It was not the thing I was a specialist in.  
20 Sorry.  
21 Q. So sitting here today, you don't know  
22 how many restructurings Maxcom went through?  
23 A. Maxcom, as I told you, I was an  
24 investment. I wasn't following that close to.  
25 It was one of the few investments in which my

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1 CONFIDENTIAL -- Claudio Khamis  
2 financial advisor was the doing the following.  
3 Q. I can represent to you that Maxcom  
4 went through at least three restructurings.  
5 Do you have any understanding of how the  
6 bondholders fared in those restructurings?  
7 A. I don't have much recollection about  
8 Maxcom.  
9 Q. Do you have an understanding of  
10 whether you made money or lost money on your  
11 Maxcom investments?  
12 A. Maxcom was paying a fairly good  
13 coupon. I don't remember if at some point they  
14 halted the coupon or decreased the coupon. I  
15 don't recall. Maxcom is one of the businesses  
16 in which I either made a lot of money or lost a  
17 lot of money.  
18 Q. When you have a company like Maxcom  
19 that goes through multiple restructurings, is it  
20 fair to say that the first or, in Maxcom's case,  
21 the first and second restructuring was  
22 unsuccessful?  
23 A. Can you repeat the question?  
24 Q. Let me rephrase it.  
25 In your experience, there are situations

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1 CONFIDENTIAL -- Claudio Khamis  
2 where companies need to restructuring multiple  
3 times; isn't that true?  
4 A. I'm not familiar with it. I would say  
5 a company are undergoing multiple time  
6 restructurings is because -- it could be due to  
7 a lot of factors.  
8 Q. I think in --  
9 Well, would it be fair to say that, in  
10 almost all of those situations, that the  
11 businesses were not as successful as the  
12 company's had hoped at the time of their  
13 immediately preceding restructuring?  
14 MR. BLOOR: Objection.  
15 Are you talking in a vacuum here?  
16 A. I don't even understand the question.  
17 I mean, I'm the one supposed to make a fair  
18 assessment about Maxcom?  
19 MR. BLOOR: Let him rephrase the  
20 question if you don't understand it.  
21 THE WITNESS: I don't understand  
22 what he's talking about.  
23 Q. How many restructurings did Alliance  
24 Bank go through?  
25 A. I don't know.

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1 CONFIDENTIAL -- Claudio Khamis  
2 Q. Again, I'll represent to you that it  
3 was at least two.  
4 Do you know how your investment in Alliance  
5 Bank fared?  
6 MR. BLOOR: Objection.  
7 You can answer.  
8 A. I don't recall.  
9 Q. Do you recall if you made money or  
10 lost money on your Alliance Bank investment?  
11 A. No. I don't recall.  
12 MR. BLOOR: Note my objection.  
13 Just give me a second.  
14 THE WITNESS: Sure.  
15 Q. How do you keep the files of the  
16 Atlantica, Baltica, and Blu Funds?  
17 A. How do I keep the files?  
18 Q. Yes.  
19 A. At some point I would -- I would open  
20 the account statements and keep them in folders,  
21 then the mail was missing significant parts of  
22 the envelopes. I never understood why. And I  
23 would say pretty much in folders, but folders  
24 are not complete.  
25 Q. Are you referring solely to the

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1 CONFIDENTIAL -- Claudio Khamis  
2 trading records of those funds?  
3 A. To the bank statements  
4 Q. Do those funds maintain any other  
5 files?  
6 A. Excuse me?  
7 Q. Do those funds maintain any other  
8 files?  
9 A. What do you mean?  
10 Q. Are there any other records that you  
11 maintain for those funds?  
12 A. Not that I know of.  
13 Q. Are you aware of any record keeping  
14 requirements that those funds might be subject  
15 to in Panama or in Chile?  
16 A. I'm not -- I'm not aware of at this  
17 moment of -- I wouldn't be certain at this  
18 moment about what the law is about any of those  
19 places.  
20 But the way account statements are  
21 produced, all the information of cost of  
22 investments and prices sold, dividends received,  
23 so it's fairly accurate.  
24 Q. Where do you maintain the folders in  
25 which you kept the paper records?

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1 CONFIDENTIAL -- Claudio Khamis  
2 A. Where?  
3 Q. Yes.  
4 A. At the time, probably at the domicile,  
5 or I could have been taken them for me for some  
6 reason somewhere, I was traveling or moving  
7 around, but . . .  
8 Q. Do you have a file cabinet at your  
9 home?  
10 A. Yeah, I have.  
11 Q. Did you search that file cabinet in  
12 conjunction with this lawsuit?  
13 A. I search everything.  
14 Q. And where did you search?  
15 A. I search all where I keep all the  
16 papers in my house.  
17 Q. Do you maintain diligence files for  
18 any of the funds?  
19 A. What is it? What do you mean by  
20 diligence?  
21 Q. Do you conduct due diligence on the  
22 investments that you made for the funds?  
23 A. Due diligence?  
24 Q. Yes.  
25 A. I make my analysis on the information

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1 CONFIDENTIAL -- Claudio Khamis  
2 I have available. I don't have the capability  
3 to conduct due diligence for myself, for  
4 instance, on a big institution. I could invest  
5 in Apple and due diligence on Apple. It is a  
6 little bit farfetched.  
7 Q. How do you determine what sort of  
8 information you review in conjunction with your  
9 investment-making process?  
10 A. It depends on the different  
11 investments. There is no -- there is no  
12 standard protocol since I'm the only  
13 decision-maker on this, and I don't have to tell  
14 my boss based on what I decided, whatever.  
15 Q. The information that you do gather on  
16 the companies in which you invest, do you keep  
17 them in any files?  
18 A. Excuse me?  
19 Q. The information that you do gather on  
20 the companies in which you invest, do you keep  
21 them in any files?  
22 A. The information that is coming  
23 permanently out of the market?  
24 Q. No. The information that you find  
25 relevant to your decision-making process.

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1 CONFIDENTIAL -- Claudio Khamis  
2 A. As I mentioned yesterday, financial  
3 information tends to get obsolete quite fast.  
4 What were the conditions for Amazon or Apple  
5 last year not necessarily apply to today, so I  
6 keep or I might keep something that I decide  
7 it's -- it's relevant or throw it away.  
8 I'm not keeping paper that I don't read,  
9 and usually -- usually -- that is not what I  
10 want to say.  
11 There is nothing standard.  
12 Q. Did you review any financial  
13 statements of BTA in conjunction of any of your  
14 investment decisions?  
15 MR. BLOOR: Objection.  
16 You can answer  
17 A. I review what, as I mentioned what was  
18 given to me at the time, like the information  
19 memorandum when it came out.  
20 During the restructuring process, when I  
21 made my first purchases, restructuring are a  
22 very dynamic processes that have a lot of noise  
23 in it, and if you're restructuring your bank  
24 just because you have a major problem in the  
25 bank, especially when you're -- when you have a



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1 CONFIDENTIAL -- Claudio Khamis  
2 claim like the one that was portrayed at the  
3 time, so I would have paid attention to the  
4 general factors, as I said.  
5 The country was, like, in which I was  
6 investing in the resources of the country. It  
7 was a rich country in terms of commodities, oil,  
8 gas, gold. Was it a minor bank or was it a big  
9 bank? In this case, it was the biggest bank.  
10 Have a look at or tried to ask some  
11 questions about the loan portfolio and the  
12 diversification of the loan portfolio, see if  
13 there's a risk, an owner that owns one percent  
14 or a majority and somebody who is really  
15 embedded and has something at stake.  
16 But this sort of information, but I  
17 couldn't be more precise. It's just general.  
18 Q. Sitting here today, do you have any  
19 recollection of reviewing the formal audited  
20 financial statements of BTA?  
21 MR. BLOOR: Objection.  
22 You can answer.  
23 A. If I recall, Mr. Walsh yesterday  
24 mentioned that only a formal audit was released  
25 in May 2010 or 2011.

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1 CONFIDENTIAL -- Claudio Khamis  
2 I understood the information released and  
3 the figures for total capital at the time to be  
4 the product of work well done by a massive  
5 endeavor by a lot of highly trained consultants,  
6 and there were, as I mentioned yesterday, more  
7 than 300 million spent in reviewing and  
8 recovering efforts and so on and so forth  
9 The numbers seemed just huge. It was huge  
10 too, was the decrease, the amount of the haircut  
11 and the decrease of liabilities from 11 billion  
12 to 4 billion. Everything was massive.  
13 So after that endeavor, when I see some  
14 numbers, I assume that there were people making  
15 responsible representations of those numbers and  
16 that if they deemed it, the restructuring to be  
17 successful, then it was successful.  
18 Q. Do you recall hearing that BTA's  
19 auditors in the, their audited financials, their  
20 audit proving BTA 2010's financial statements  
21 issued a going-concern warning?  
22 MR. BLOOR: Objection.  
23 You can answer.  
24 A. I don't recall that specific  
25 allegation.

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1 CONFIDENTIAL -- Claudio Khamis  
2 I recall the allegation that the capital  
3 was negative. I don't know at what point in  
4 time I recall the allegation of liabilities,  
5 off-balance-sheet items were recognized on the  
6 balance sheet.  
7 As I said yesterday, it was contradicting  
8 the information that was portrayed just a few  
9 months before, after this massive endeavor by  
10 the government, or massive undertaking is a  
11 better word.  
12 (Whereupon, Khamis Exhibit  
13 Number 54, financial statements, was  
14 marked for identification as of this  
15 date.)  
16 Q. Mr. Khamis, the court reporter has  
17 just handed you what's been marked as  
18 Exhibit 54, which I'll represent to you is the  
19 consolidated financial statements of BTA Bank,  
20 JSC, and its subsidiaries for the year ended  
21 31 December 2010.  
22 Do you have that document in front of you?  
23 A. Yes, I have.  
24 MR. BLOOR: Is this part of the  
25 document production? I'm just curious.

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1 CONFIDENTIAL -- Claudio Khamis  
2 MR. VIGNA: Yeah. I think this  
3 version came straight off the website.  
4 MR. BLOOR: Okay.  
5 Q. Have you ever seen this document  
6 before, Mr. Khamis?  
7 A. I couldn't tell you. I couldn't tell  
8 you. It was not produced by me. I couldn't  
9 tell you.  
10 Q. Would you agree with me that audited  
11 financial statements contain information that  
12 reasonable investors often find important to  
13 their investment decisions?  
14 MR. BLOOR: Objection.  
15 You can answer.  
16 A. I -- I understood that at the  
17 admission of the new subordinated notes at the  
18 time that the numbers that were portrayed as  
19 positive capital of like 1.9 billion were the  
20 result of audited or responsibility made  
21 numbers. I -- it wouldn't come up to my mind at  
22 the time that, after massive undertaking, bonds  
23 would be issued without audited financial  
24 statements or unreliable financial statements.  
25 Q. Since we have this document, why don't

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1 CONFIDENTIAL -- Claudio Khamis  
2 we just talk about it on the record for a  
3 moment.  
4 Can you please open it up to the contents  
5 page?  
6 A. What is it?  
7 Q. To the contents page --  
8 A. The previous page?  
9 Q. Right after the cover is a contents  
10 page.  
11 Do you see the section of the contents that  
12 says notes to the consolidated financial  
13 statements?  
14 A. What number is it?  
15 Q. It's -- okay. What are the two  
16 headings of the contents page?  
17 A. Independent auditor's reports and  
18 notes to the consolidated financial statements.  
19 Q. Okay. Under that second heading,  
20 notes to the consolidated financial  
21 statements --  
22 A. Yes.  
23 Q. -- what are the first three notes?  
24 A. Principal activities, going concern,  
25 and basis of preparation.

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1 CONFIDENTIAL -- Claudio Khamis  
2 Q. Do you know what a going-concern  
3 warning is?  
4 MR. BLOOR: Objection.  
5 You can answer.  
6 A. I don't know what a going-concern  
7 warning is, but I'm familiar with going concern.  
8 Q. What is your understanding of the  
9 phrase going concern?  
10 A. A company that is viable.  
11 Q. Okay. Why don't we look at page 8 of  
12 this particular audited financial statements  
13 that is the section called going concern.  
14 Do you see that section?  
15 A. Yes, I'm seeing it now.  
16 Q. Do you think you've ever reviewed that  
17 before in your life?  
18 A. From what I see on page 8, there's a  
19 lot of historic information, speaking mainly  
20 prior to the 2010 restructure.  
21 Q. Why don't you move forward to pages 9  
22 and 10. Take your time.  
23 MR. BLOOR: Can you repeat the  
24 pending question --  
25 Hold on. Just let him repeat the

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1 CONFIDENTIAL -- Claudio Khamis  
2 pending question so you know what your  
3 answer is.  
4 MR. VIGNA: That's a good point.  
5 Q. The first question is:  
6 Do you think you've ever reviewed this  
7 section before in your life?  
8 A. I -- I don't recall at this stage.  
9 Q. Is it your position that the documents  
10 that are made available on BTA's website have  
11 been provided to the company's investors?  
12 A. It depends on the amount of diffusion  
13 of those documents. I know that certain  
14 documents were announced internally to the bank  
15 I don't know how BTA Bank advertised it, how it  
16 worked, the flow of information.  
17 The investor presentations, I have a clear  
18 recollections of having seen them.  
19 This here, probably not.  
20 But investor presentation made reference to  
21 the capital shortfall, I think, if I have my  
22 memory right.  
23 Q. We'll go back and we'll look at some  
24 other documents, but the question was  
25 Is it your position that documents that BTA

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1 CONFIDENTIAL -- Claudio Khamis  
2 posted on the website have been made available  
3 to its investors?  
4 MR. BLOOR: Objection.  
5 A. I would say that it was on the  
6 website, because website were available to  
7 investors.  
8 Q. If you move forward to page 10 of this  
9 audited financial statement, under the going  
10 concern section, can you read the three  
11 paragraphs beginning with the word however?  
12 A. Excuse me?  
13 Q. Can you read into the record the three  
14 paragraphs --  
15 A. Page 10? I don't find the word  
16 however. Can you point it out?  
17 Okay.  
18 However, despite a successful completion of  
19 the bank's financial liabilities restructuring  
20 process, which has resulted in a considerable  
21 recovery of the group's equity and the bank's  
22 regular capital, the group continues to run a  
23 capital deficit totalling 104,513 million Kazakh  
24 tenge, as of December 31st, 2010.  
25 This statement is contradictory in itself.

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1 CONFIDENTIAL -- Claudio Khamis  
2 Q. Okay. Why don't you read the next two  
3 paragraphs, and then you can explain why you  
4 think it's contradictory.  
5 A. The bank management has started --  
6 This one?  
7 Q. Yes.  
8 A. -- implementing a new business model.  
9 The implementation is on its early stage,  
10 preventing the bank's management from  
11 objectively measuring the bank's actual results  
12 compared to plan. Thus, there is still a  
13 material uncertainty with respect to hitting  
14 target and objectives included in the bank's new  
15 business model.  
16 This is, again, contradictory.  
17 Q. Would you mind reading the next  
18 paragraph?  
19 A. Combination of the above circumstances  
20 indicates that there is still an uncertainty  
21 which may cast significant doubt about the  
22 group's ability to continue as a going concern.  
23 Q. Would you agree with me that, at least  
24 as of the date of this audited financial report,  
25 the bank and its auditors were clearly signaling

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1 CONFIDENTIAL -- Claudio Khamis  
2 to the market that there was a material  
3 uncertainty with respect to achieving targets  
4 and objectives, included in the bank's new  
5 business model, and that the combination of the  
6 above circumstances indicates that there is  
7 still an uncertainty, which may cast significant  
8 doubt about the group's ability to continue as a  
9 going concern?  
10 MR. BLOOR: Objection.  
11 You can answer.  
12 THE WITNESS: Can I answer?  
13 MR. BLOOR: Yes.  
14 A. I think I made clear to you, when I  
15 read those three paragraphs, that they are  
16 completely inconsistent, and they are -- they  
17 don't make any sense.  
18 You cannot deem or even write that despite  
19 a successful completion of a bank's financial  
20 liabilities restructuring process, that you  
21 don't know about the business model at the time  
22 you complete the restructuring, and that the  
23 numbers that you portray change in 132 days and  
24 the magnitude that it changed.  
25 This is laughable. I mean, how can you be

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1 CONFIDENTIAL -- Claudio Khamis  
2 serious about, as an administrator to, of a  
3 restructuring process to put up numbers that  
4 132 days later they vanish, the whole capital,  
5 and you have increased negative capital. This  
6 is -- this is completely inconsistent.  
7 And what is more inconsistent is that  
8 having this report and audited financial  
9 statements -- what is the word Walsh used  
10 yesterday, by a certified auditor? What is the  
11 word?  
12 Q. Big four.  
13 A. No. Not big four. You put a name,  
14 because --  
15 MR. WALSH: I'm not testifying.  
16 Sorry.  
17 A. It's about a very qualified or there  
18 was a name to underline this.  
19 That even massive restructuring was done,  
20 and then 132 days later the audited financial  
21 statements showed a capital, a significant  
22 capital shortfall, and the company is deemed  
23 into this audited by big four financial  
24 statements, that in August of the same year,  
25 like four months later, five months later,

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1 CONFIDENTIAL -- Claudio Khamis  
2 Mr. Kulibayev and his wife, the daughter of  
3 Nazarbayev, are interested in buying bonds of  
4 something that is not a going concern or has the  
5 risk of not being a going concern, and whether  
6 the numbers are not what they are portrayed.  
7 This is why I'm telling you that the  
8 process all along was inconsistent.  
9 Q. Do you believe that an audited  
10 financial statement is the type of information  
11 that would be relevant in making an investment  
12 decision?  
13 MR. BLOOR: Objection.  
14 You can answer.  
15 A. Can you repeat the question?  
16 Q. Do you believe that an audited  
17 financial statement is the type of document or  
18 contains the type of information that would be  
19 relevant to making an investment decision?  
20 MR. BLOOR: Objection.  
21 A. It depends on a lot of circumstances.  
22 Q. Just so I understand, is the  
23 inconsistency that you believe exists in this  
24 going-concern warning simply the fact that the  
25 bank recently concluded what has been called a

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1 CONFIDENTIAL -- Claudio Khamis  
2 successful completion of the restructuring?  
3 MR. BLOOR: Objection.  
4 You can answer.  
5 A. Jason, the way you are trying to  
6 formulate questions, I mean, I'm not  
7 understanding what you're really want to ask.  
8 Can you put the question in a simpler form?  
9 Q. Let me see if I can rephrase it.  
10 Is the inconsistency that you believe  
11 exists in this portion of the audited financial  
12 statement simply that there is a going-concern  
13 warning issued so soon after what has been  
14 characterized as a successful restructuring?  
15 MR. BLOOR: Objection.  
16 You can answer.  
17 A. I still don't understand the question.  
18 Q. What is the inconsistency that you  
19 believe exists in this document?  
20 MR. BLOOR: Objection.  
21 A. This is portrayed as an audited report  
22 on -- on numbers that were released at -- at the  
23 end of 2010, when the terms of the first  
24 restructuring were announced and the information  
25 memorandum was released, and that day capital

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1 CONFIDENTIAL -- Claudio Khamis  
2 was portrayed of 1.9 billion, and those audited  
3 statements include, not just this big deviation  
4 on those numbers, they also include, if my  
5 recollection of events is right, the inclusion  
6 as a liability as portrayed by the JP Morgan  
7 report that serves to decrease capital or to  
8 impact capital  
9 I would like to have the JP Morgan report,  
10 maybe, at some point.  
11 Q. We'll look at it again.  
12 A. But those reports, it is my  
13 understanding that were treating  
14 off-balance-sheet items as on-balance-sheet  
15 items, and this, again, didn't make any sense,  
16 according to what was portrayed in the  
17 information memorandum.  
18 Q. What do you understand the phrase  
19 capital deficit to mean?  
20 A. Capital deficit is a vast concept, but  
21 it can be a deficit against regulatory capital  
22 requirements. It could be a lot of things, this  
23 concept.  
24 Q. Would it surprise you that Patrick  
25 Kiblsky referred to you as one of his most

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1 CONFIDENTIAL -- Claudio Khamis  
2 aggressive and sophisticated clients?  
3 A. This, can I have the email in front of  
4 me where he portrays me like this?  
5 Q. Sure. It was previously marked during  
6 your deposition as Exhibit 47.  
7 A. Exhibit 47?  
8 Q. Yes, Khamis 47.  
9 A. I don't have it.  
10 MR. BLOOR: I think we should get  
11 the exhibits in order.  
12 THE WITNESS: I leave the exhibits  
13 as I receive them, and somebody is mixing  
14 them.  
15 MR. BLOOR: Use my copy.  
16 A. Yeah. In the context of this email,  
17 which is internal email from Patrick to his  
18 boss, it seems that they want to charge me  
19 commission or permission to charge up to two  
20 percent, which seems to be high.  
21 He's making the case to his boss that I'm  
22 an aggressive and sophisticated client,  
23 aggressive probably in the context of the  
24 amounts that I buy of certain securities that  
25 are probably for emerging markets.

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1 CONFIDENTIAL -- Claudio Khamis  
2 Q. And I think that you've discussed and,  
3 in fact, your entire investment philosophy is to  
4 buy assets that the market is not valuing  
5 highly; isn't that true?  
6 MR. BLOOR: Objection.  
7 You can answer.  
8 A. Can you repeat the question?  
9 Q. And is it fair to call your investment  
10 strategy an investment strategy to buy assets  
11 that the market isn't valuing highly?  
12 MR. BLOOR: Objection.  
13 A. My strategy is to buy assets that --  
14 that have a market price lower to its intrinsic  
15 value assessed at the time of buying.  
16 Q. How do you determine a company's  
17 intrinsic value, typically?  
18 A. It would depend on each company, each  
19 situation. Sometimes it's more easy when they  
20 own, for instance real estate or properties, or  
21 than when it's other type of class of assets.  
22 Q. How did you go about trying to  
23 determine the intrinsic value of BTA?  
24 A. What time?  
25 Q. Let's start at the time of your very



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1 CONFIDENTIAL -- Claudio Khamis  
2 first purchases of TuranAlem bonds in 2010.  
3 MR. BLOOR: Objection. I believe  
4 his first purchases were in 2009, August  
5 of 2009.  
6 Q. Let's start in 2009.  
7 A. Yes. The market in 2009, the price of  
8 bonds at \$0.20, and as I mentioned yesterday,  
9 given that it was a country that, at the time,  
10 we deemed well run and it was the biggest bank  
11 and it had, like, 70 percent of the portfolio of  
12 loans in very good industries, and that the  
13 amount of liabilities and provisioning accounted  
14 for a big part of the portfolio being destroyed  
15 or have lost value.  
16 We -- we didn't make an assessment at the  
17 time that -- that this was plausible, that 20  
18 billion in dollars and do not vanish.  
19 Q. Do you have any understanding of any  
20 of the allegations against Mr. Ablyazov?  
21 MR. BLOOR: Objection.  
22 You can answer.  
23 A. I have a -- to my knowledge, at the  
24 time I was investing, that there were issues  
25 related to previous owner. I don't have a

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1 CONFIDENTIAL -- Claudio Khamis  
2 particular knowledge, besides a claim for around  
3 four billion that is original knowledge of -- of  
4 related credits, can I say?  
5 But other than that, I don't have a  
6 specific information on that.  
7 Q. Do you have any understanding that one  
8 of the things that Mr. Ablyazov is alleged to  
9 have done is to steal the deeds and the other  
10 evidence of the bank's collateral on the  
11 projects for which it lent money?  
12 A. No. As I told you, I'm not aware of  
13 any details.  
14 Q. Would you agree with me that a deed  
15 can disappear a little bit more easily than, for  
16 example, a piece of real estate?  
17 A. I think that's a reasonable  
18 assessment.  
19 Q. Can you remind me when your daughter  
20 was born?  
21 A. June 25, 2009.  
22 Q. Is it the case, then, that you were  
23 physically in Chile when you placed your orders  
24 for the TuranAlem bonds in 2009, then?  
25 A. I don't know where I was. Probably,

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1 CONFIDENTIAL -- Claudio Khamis  
2 Q. And I think your earlier testimony was  
3 that for the first three years of your  
4 daughter's life you spent most of your time --  
5 A. Yeah, that's true.  
6 Q. -- in Chile?  
7 A. Yes.  
8 Q. Is it, therefore, likely that you  
9 placed all of your purchase orders for BTA  
10 securities from Chile?  
11 A. What is fair to say is that I would  
12 have called my broker in Miami to place an order  
13 with him.  
14 Q. And where would you have placed that  
15 call from?  
16 A. Probably from Chile or from wherever I  
17 was, if I was in another country.  
18 MR. BLOOR: Object -- go ahead,  
19 sorry.  
20 Q. Yesterday, do you recall your  
21 testimony about Vision Advisors?  
22 A. We talked about Vision.  
23 Q. What is your relationship -- do you  
24 have any business relationship with Vision  
25 Advisors -- strike that.

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1 CONFIDENTIAL -- Claudio Khamis  
2 Do either you, personally, or any of the  
3 funds for which you served as decision-maker,  
4 have any business relationship with Vision  
5 Advisors?  
6 MR. BLOOR: Object to the form.  
7 You can answer.  
8 A. The entities that engaged in a  
9 transaction with Vision Advisors for a block of  
10 Tristan Oil bonds that were from Vision  
11 Advisors' clients, and Vision Advisors sold to  
12 my entities this package of bonds.  
13 Q. Did Vision Advisors also make any  
14 purchases of BTA bonds on behalf of Atlantica,  
15 Baltica, or Blu Funds?  
16 MR. BLOOR: Objection to the form  
17 You can answer.  
18 A. I -- I don't have knowledge of that.  
19 Q. Who introduced you to the EFG firm?  
20 A. Claudio Izzo.  
21 Q. From Vision Advisors?  
22 A. He was working at Vision Advisors at  
23 the time, yes.  
24 But this was -- he introduced me to Vision  
25 Advisors -- I don't know, in 2014 or -- yeah,



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1 CONFIDENTIAL -- Claudio Khamis  
2 something along that year.  
3 Q. Have you ever discussed EFG with  
4 Mr. Ablyazov?  
5 A. I don't think so.  
6 Q. Have you communicated with  
7 Mr. Ablyazov in any manner, besides during the  
8 two in-person meetings that you discussed?  
9 A. No. I don't think so.  
10 Q. As far as the written communications  
11 with Mr. Ablyazov's representatives, were all of  
12 those made through your attorneys?  
13 A. Excuse me. Can you repeat that?  
14 Q. Let's lay a foundation.  
15 Have you ever written to either  
16 Mr. Ablyazov or any of his representatives?  
17 A. Have I?  
18 Q. Yes, you, personally, Claudio Khamis.  
19 Have you ever written, in any way, shape,  
20 or form, to Mr. Ablyazov's representatives?  
21 A. If I have written to communicate?  
22 Q. Yes.  
23 A. In written form? No. I don't recall.  
24 Q. How did you set up those two meetings  
25 with Mr. Ablyazov?

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1 CONFIDENTIAL -- Claudio Khamis  
2 A. As I mentioned yesterday, through a  
3 relative of him.  
4 Q. Who communicated with the relative?  
5 MR. BLOOR: Objection.  
6 You can answer.  
7 THE WITNESS: Do I have to answer  
8 that?  
9 MR. BLOOR: If you remember, yeah.  
10 A. Ilyas Khrapunov.  
11 Q. Have you had any written  
12 communications with Mr. Khrapunov?  
13 A. I don't recall.  
14 Q. How were you introduced to  
15 Mr. Khrapunov?  
16 A. I was introduced in a call with my  
17 lawyer, and I understand it's his lawyer or  
18 Ablyazov's lawyers or somebody else's lawyer.  
19 Q. Was that lawyer Mr. Jaffe?  
20 A. Yes.  
21 Q. After that initial introduction, how  
22 did you communicate with Mr. Khrapunov?  
23 A. After the initial introduction?  
24 Q. Yes.  
25 A. I think by phone.

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1 CONFIDENTIAL -- Claudio Khamis  
2 Q. Do you have Mr. Khrapunov's phone  
3 number?  
4 A. Yeah.  
5 Q. Do you have Mr. Ablyazov's number?  
6 A. No.  
7 Q. How many times have you spoken to  
8 Mr. Khrapunov?  
9 A. I don't recall.  
10 Q. Is it more than five?  
11 A. Yes, more than five.  
12 Q. You think it's more than ten?  
13 A. I think it's more than ten.  
14 Q. Do you think it's more than 20?  
15 A. I wouldn't know where the number,  
16 where to place the number. I make a lot of  
17 phone calls to different people, but it could be  
18 a number.  
19 Q. Do you text with Mr. Khrapunov?  
20 A. I -- I usually ask him if he can talk,  
21 if he's available to talk.  
22 Q. By text?  
23 A. By -- yes, by WhatsApp.  
24 Q. Do you save your WhatsApp chat  
25 history, or do you delete that?

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1 CONFIDENTIAL -- Claudio Khamis  
2 A. I don't know. I don't pay much  
3 attention to WhatsApp.  
4 Q. That was the purpose of your  
5 communications with Mr. Khrapunov?  
6 A. Usually it's about making question  
7 regarding some fact or some question I may have.  
8 Q. So usually your discussions with  
9 Mr. Khrapunov are about this case?  
10 A. I wouldn't say about the case. It's  
11 about the BTA story.  
12 Q. And what do you mean by the BTA story?  
13 A. BTA story is the whole story that was  
14 around BTA until today.  
15 Q. When did you first communicate with  
16 Mr. Khrapunov?  
17 A. I don't recall. But listen, the  
18 first -- it was --  
19 When? I don't recall, but it was at the --  
20 at the call with the lawyers  
21 Q. So it was after you filed this  
22 lawsuit?  
23 A. I met Mr. Khrapunov when I talked to  
24 him way, many, many years after filing this  
25 lawsuit.

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1 CONFIDENTIAL -- Claudio Khamis  
2 Q. How long has this lawsuit been going  
3 on?  
4 A. Since 2012, I guess.  
5 Q. I think you can testify from personal  
6 experience, then, that sometimes litigation  
7 drags on?  
8 A. It's long.  
9 Q. Do you have any purpose in discussing  
10 the BTA story with Mr. Khrapunov, other than  
11 pursuing this litigation?  
12 A. I found very interesting the whole BTA  
13 story, and not what's happening prior to 2012,  
14 but also I found interesting what happened after  
15 2012.  
16 I particularly -- how can a bank being sold  
17 for less than a dollar, and it was precisely the  
18 bank that merged with BTA after subordinated  
19 debt lost pretty much everything, but equity  
20 didn't lose anything.  
21 Q. Is it your position that Fund SK  
22 didn't lose any money on the equity that it held  
23 in BTA?  
24 MR. BLOOR: Objection.  
25 You can answer.

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1 CONFIDENTIAL -- Claudio Khamis  
2 A. This is not my position.  
3 Q. Then please explain your statement.  
4 A. My statement is that after the 2012  
5 restructuring, SK Fund was still in possession  
6 of the bank. They didn't give us the chance to  
7 covert our debt for equity. We were deprived of  
8 our recovery units.  
9 Q. Correct me if I'm wrong, but isn't the  
10 exact --  
11 Weren't the terms of the second  
12 restructuring a conversion of your debt into  
13 equity?  
14 A. With a complete illusion, you mean.  
15 My debt was given to me 2.5 cents.  
16 Q. You received equity, however, didn't  
17 you?  
18 A. Valued at very little.  
19 Q. Do you have any idea how much Fund SK  
20 ultimately sold BTA for?  
21 MR. BLOOR: Objection.  
22 You can answer.  
23 A. BTA was sold, like my recollection is,  
24 like, for a billion to Kenes Rakishev and  
25 another person.

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1 CONFIDENTIAL -- Claudio Khamis  
2 Q. Well, wasn't it KKB that you were just  
3 referring to?  
4 A. I don't -- listen, I don't have the  
5 whole transactions, because they were very  
6 complicated and very particular, to say the  
7 least, in my head.  
8 Q. Would you admit that Fund SK lost over  
9 \$6 billion of the money it invested in BTA?  
10 MR. BLOOR: Objection.  
11 A. I would not admit to that.  
12 Q. Why would you contest that?  
13 MR. BLOOR: Objection.  
14 A. I don't think I have all the facts.  
15 Q. Do you have any basis for contesting  
16 that Fund SK lost billions of dollars on its  
17 investments or that Fund SK lost billions of the  
18 dollars in the money it injected into BTA?  
19 MR. BLOOR: Objection.  
20 A. Again, I don't have all the facts to  
21 make an assessment.  
22 I just see a series of transactions until  
23 well into 2015 or '16 that are very peculiar,  
24 being the most peculiar of all the sale of  
25 Kazkommertsbank for less than a dollar to the

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1 CONFIDENTIAL -- Claudio Khamis  
2 daughter of the dictator.  
3 Q. So just to be clear, as you sit here  
4 today, you have no basis on which to contest  
5 that Fund SK lost billions of dollars on the  
6 money it injected into BTA?  
7 MR. BLOOR: Let me object -- note my  
8 objection.  
9 You can answer. Go ahead.  
10 A. You're repeating yourself. I don't  
11 know all the facts.  
12 THE WITNESS: I would like to take a  
13 break to go to the bathroom.  
14 MR. VIGNA: Sure.  
15 THE VIDEOGRAPHER: The time is 2:14.  
16 We are going off the record.  
17 (Whereupon, a brief recess was  
18 taken.)  
19 THE VIDEOGRAPHER: The time is  
20 2:27 p.m. We are back on the record.  
21 Q. Mr. Khamis, were you the --  
22 Did you and your attorneys reach out to  
23 Mr. Khrapunov in the first instance, or did they  
24 reach out to you?  
25 A. No. I instructed my attorneys to

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1 CONFIDENTIAL -- Claudio Khamis  
2 reach out to him.  
3 Q. Have you discuss the strategies for  
4 this litigation with Mr. Khrapunov?  
5 A. I have never been with Mr. Khrapunov  
6 besides that one first call with an attorney  
7 present.  
8 I am not a lawyer. I couldn't be  
9 discussing legal strategy.  
10 With Mr. Khrapunov, I discussed what I  
11 mentioned and some other stuff.  
12 Q. You do discuss this case, in at least  
13 some way, with Mr. Khrapunov?  
14 A. Excuse me?  
15 Q. You do, at least, discuss this case,  
16 in some way, with Mr. Khrapunov?  
17 A. No. What I'm saying is I probably  
18 asked Mr. Khrapunov about some REITs and other  
19 sort of stuff.  
20 I'm not saying stuff with regarding this  
21 case.  
22 Q. Have you spoken to Mr. Khrapunov since  
23 he was found liable by a UK court for over a  
24 half a billion UK pounds for aiding and abetting  
25 embezzlement?

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1 CONFIDENTIAL -- Claudio Khamis  
2 MR. BLOOR: Objection.  
3 A. I don't know the -- the accusation. I  
4 don't know the date of the accusation. I  
5 couldn't put a timeline relative to this  
6 accusation.  
7 Q. Are you familiar with the legal  
8 proceedings against Mr. Khrapunov in the UK?  
9 A. I think I told you already, I don't  
10 have knowledge of what he's doing in terms of  
11 legal stuff in the UK, besides having seen the  
12 document that was reported by UK court, and I  
13 don't even know if it's pertaining to  
14 Mr. Khrapunov regarding the Lewis Report.  
15 Q. Has Mr. Khrapunov discussed any of his  
16 legal difficulties with you?  
17 A. No.  
18 Q. You didn't see the headlines about him  
19 being found liable for over half a billion  
20 pounds in August of this year?  
21 MR. BLOOR: Objection.  
22 A. Of this year?  
23 Q. Yes --  
24 A. What news? Was it on Bloomberg?  
25 Q. It was on multiple news sources.

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1 CONFIDENTIAL -- Claudio Khamis  
2 A. I didn't see. Nobody brought me that  
3 information.  
4 Q. And you are --  
5 You are aware that Mr. Ablyazov has been  
6 found liable for fraud and embezzlement as well;  
7 is that correct?  
8 MR. BLOOR: Objection.  
9 A. I'm not -- I don't know.  
10 As I mentioned before, I don't know what  
11 the legal status of -- and I don't know if  
12 he's -- about legal contingencies or  
13 proceedings. It's not a matter of my field.  
14 Q. Are you aware that Mr. Ablyazov was  
15 sentenced to jail?  
16 MR. BLOOR: Objection.  
17 A. I -- I don't -- I don't know.  
18 I'm spending my time and trying to  
19 understand how -- how the merger of BTA and  
20 Kazkommertsbank and why Kazkommertsbank was  
21 sold. I'm spending my time on stuff that's more  
22 interesting.  
23 Q. So you're trying to get information  
24 from convicted criminals about that subject?  
25 MR. BLOOR: Objection.

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1 CONFIDENTIAL -- Claudio Khamis  
2 A. Did I say that? Did I say that?  
3 Q. Are you aware that Mr. Ablyazov is a  
4 convicted criminal?  
5 MR. BLOOR: Objection.  
6 A. I'm not aware.  
7 MR. BLOOR: Just Claudio --  
8 I think we've exhausted his  
9 knowledge. Now you're beginning the  
10 badger the Witness.  
11 You've laid no foundation for any of  
12 this. I've objected, you haven't fixed  
13 it, so I suggest you move on, because  
14 it's getting harassing at this point.  
15 MR. VIGNA: Your objection is noted.  
16 Q. Have you --  
17 Is it your position that you do not know  
18 that Mr. Ablyazov is a convicted felon?  
19 MR. BLOOR: Objection.  
20 Is it your position that you do not  
21 know?  
22 So answer that, if you can.  
23 A. My position is that I don't follow his  
24 legal status and his cases, and I don't know  
25 what the results of his cases are.

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1 CONFIDENTIAL -- Claudio Khamis  
2 Q. Are Mr. Ablyazov or Mr. Khrapunov  
3 providing any funding for this litigation?  
4 MR. BLOOR: Objection. He answered  
5 that yesterday.  
6 But go ahead and answer it again.  
7 A. No.  
8 Q. Have either of those individuals made  
9 any promise, any promises to reimburse any of  
10 your expenses for this litigation?  
11 MR. BLOOR: Objection.  
12 A. No.  
13 Q. Do you have any understandings with  
14 either of those individuals to, for them to  
15 reimburse any of your expenses for this  
16 litigation?  
17 MR. BLOOR: Objection.  
18 A. No.  
19 Q. Do you have any understandings with  
20 any associates of Mr. Khrapunov and Mr. Ablyazov  
21 to reimburse you for any of the expenses of this  
22 litigation?  
23 MR. BLOOR: Objection.  
24 A. What do you mean by associates?  
25 Q. Do you have any understandings with

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1 CONFIDENTIAL -- Claudio Khamis  
2 anyone to reimburse you for any of the expenses  
3 of this litigation?  
4 A. No.  
5 Q. Did you pay for all of the costs of  
6 this litigation to date?  
7 MR. BLOOR: Objection.  
8 A. Are you deposing me now in my personal  
9 capacity or the plaintiffs?  
10 Q. Fair enough. Did --  
11 Has Atlantica, Baltica, and the Blu Funds  
12 paid for 100 percent of the legal fees incurred  
13 by the plaintiffs to date in this litigation?  
14 MR. BLOOR: Objection --  
15 A. Yes.  
16 MR. BLOOR: Objection. That's okay.  
17 THE WITNESS: I'll take more time.  
18 Q. The individual plaintiffs who withdrew  
19 from the suit did not contribute anything to the  
20 legal costs of this litigation?  
21 MR. BLOOR: You can answer.  
22 A. Not that I know of.  
23 Q. How did you end up in a lawsuit with  
24 those individuals?  
25 MR. BLOOR: Objection.

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1 CONFIDENTIAL -- Claudio Khamis  
2 A. Can you rephrase your question?  
3 Q. Who organized the plaintiffs' group in  
4 this case?  
5 MR. BLOOR: Objection.  
6 A. Who organized?  
7 Q. Yes.  
8 A. I -- I engaged or I took decision to  
9 litigate and defend my assets. At the time when  
10 all this was happening, I got to know that other  
11 individuals were holders of bonds and that they  
12 also had the same losses that I had. I don't  
13 remember what, if they asked or how it came  
14 about, and they were, when I got to know the  
15 amount that they have investment relative to the  
16 amount the plaintiffs had invested was  
17 negligible, probably one percent or something  
18 like this, or two percent, so --  
19 So I decided that there was no point in, of  
20 every invoice I would receive for \$48,000,  
21 calculate two percent and collect \$480 for each  
22 one of them or \$300, because I think there were  
23 three.  
24 So there was, at some point, the  
25 conversation with Patrick. Patrick was the

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1 CONFIDENTIAL -- Claudio Khamis  
2 person who -- actually, two of them were  
3 Patrick's brothers and the other one, Glikberg.  
4 Patrick knows him very well, that if they  
5 recovered something they would get me some  
6 present, at least.  
7 Q. Over what period of time were you  
8 discussing the possibility of bringing a lawsuit  
9 with Mr. Patrick Kiblsky?  
10 A. I don't recall what I was discussing  
11 and the date.  
12 Q. Can you please pull up what was  
13 previously marked as Kiblsky Exhibit 35? Can  
14 you pull it out, please?  
15 A. If I find it.  
16 35, you say?  
17 Q. Yeah, it's Kiblsky 35 from yesterday.  
18 MR. BLOOR: I think during the next  
19 break somebody should organize the  
20 exhibits so they're easier to find  
21 Q. It probably won't have a green  
22 sticker, because it would have had a --  
23 MR. BLOOR: Here it is.  
24 THE WITNESS: 35?  
25 MR. BLOOR: No. It's --

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1 CONFIDENTIAL -- Claudio Khamis  
2 THE WITNESS: So they are from --  
3 okay  
4 Q. Where it says at the top [in Spanish],  
5 is that a fair translation, only for you,  
6 Patrick, don't forward?  
7 A. Correct.  
8 Q. And this document that you were  
9 sending Patrick is a note from Alexey Bulgakov  
10 at Troika; right?  
11 A. Yeah.  
12 Q. Did you have any --  
13 What was your relationship with Troika?  
14 A. None that I recall. I would receive,  
15 as were produced, I think, a couple of Troika  
16 reports. I don't know if there were two or  
17 three of them.  
18 Q. It looks like sometimes you and  
19 Mr. Izzo directly corresponded with Troika.  
20 Is that the case?  
21 A. Me, directly?  
22 Q. Sometimes I think you're copied, yes.  
23 A. Coped?  
24 Q. Yes.  
25 A. I would have to see where, if he

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1 CONFIDENTIAL -- Claudio Khamis  
2 copied me. I don't recall being copied.  
3 Bulgakov was probably one of the analysts  
4 that, in hindsight, better understood or had a  
5 lot of information regarding what was being  
6 disclosed or -- he had analysis that was way  
7 more extensive than JP Morgan report's on the  
8 issue.  
9 Q. Mr. Bulgakov's email here to Mr. Izzo,  
10 it says:  
11 The major asset for the creditors that I  
12 think will be very useful is the ability to sue  
13 SK for their course of actions.  
14 Do you see that at the bottom of the third  
15 paragraph?  
16 A. It says about BTA? This one?  
17 Q. That would be the first paragraph --  
18 A. I think that the reason behind BTA's  
19 Kazakh erratic behavior conflicts. The major  
20 motives, I think, are a desire to avoid personal  
21 responsibility for anything, and maybe desire to  
22 cover all up all bad things that happened at BTA  
23 over the past two years.  
24 From my discussions with people from the  
25 other side, I understand that there is a little

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1 CONFIDENTIAL -- Claudio Khamis  
2 looking-forward -- that there is little  
3 looking-forward thinking.  
4 Q. You can read it all into the record.  
5 That's fine. The paragraph I'm interested in,  
6 though, is the third paragraph.  
7 A. The outcome --  
8 Which one is the third -- I don't see  
9 the --  
10 Q. Don't leave creditors in the dry.  
11 A. Well, let me --  
12 Outcome of this sort of action is so hard  
13 to predict --  
14 MR. BLOOR: Claudio, you can read it  
15 to yourself so the reporter doesn't have  
16 to take it down.  
17 A. Okay. So where --  
18 I don't see where the third paragraph is.  
19 Q. It's bad spacing, but this is the one.  
20 A. Okay. Sorry. I couldn't get it  
21 earlier.  
22 Leave creditors in the dry.  
23 So is not exactly correct expression, I  
24 think.  
25 The major asset for the creditors that I

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1 CONFIDENTIAL -- Claudio Khamis  
2 think will be very useful, it is the ability for  
3 the creditors is the ability to sue SK for the  
4 course of action.  
5 Q. And the date of this email is February  
6 of 2012?  
7 A. Yes, it's February of 2012.  
8 Q. So that's ten months before you  
9 actually filed suit?  
10 A. This is probably at the same time --  
11 this is at the same time where -- not at the  
12 same time. It was actually the next day, I  
13 think -- this is February 4th, but is the month  
14 or the date? This 2 of April? Probably this is  
15 2 of April.  
16 Q. I don't think so, because the previous  
17 one says 2/3, so it would be surprising that you  
18 would wait over a month to forward.  
19 A. Excuse me?  
20 Q. When you were sending it to  
21 Mr. Kiblsky, it says 2/4/12. Beneath it, when  
22 you got the message that's forwarded from  
23 Mr. Bulgakov is 12/2/3, which makes me believe  
24 it's February.  
25 A. Probably, you're right. I have to



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1 CONFIDENTIAL -- Claudio Khamis  
2 check that, because I usually have the dates on  
3 my email as we use them, not in the US. We put  
4 first the day and then the month and not  
5 otherwise.  
6 Q. Why were you sending this note from  
7 Mr. Bulgakov to Mr. Kiblsky?  
8 A. Kiblsky would be a person at some  
9 point in time that I would want his opinion on  
10 some development.  
11 And I found this probably a little bit  
12 annoying, the tone of the email for the date,  
13 because if my memory is not wrong, around the  
14 same days or previously, at the very beginning  
15 of February 2012, SK officials, if I remember  
16 right, were talking in a very friendly tone or  
17 were saying in a very friendly tone to sit down  
18 with investors to -- to even talk about the  
19 possibility of a restructuring, whether that  
20 decision would be made or not, it was up to  
21 happen or not.  
22 And if I recall well, this piece of  
23 information also was -- was portrayed that SK  
24 was willing to put or inject capital into the  
25 bank if the debt holders would do the same,

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1 CONFIDENTIAL -- Claudio Khamis  
2 which at the time I thought okay, seems very  
3 reasonable to swap debt for equity or subscribe  
4 a sharing offering, but by any means, losing the  
5 value of the my investment.  
6 So nothing seemed -- seemed particularly  
7 worrying. All this information was analyzed in  
8 the context of previous information, like the  
9 one that I received portraying Halyk's Bank  
10 owned by Kulibayev's wife to buy more bonds in  
11 -- in a scenario of conflicting evidence.  
12 And as I said, this also linked with the  
13 fact that it was successfully restructured with  
14 other haircuts and so much that I repeated so  
15 much in the deposition previous.  
16 Q. I'm not sure why that has anything to  
17 do with why you were sending that to, this, to  
18 Mr. Kiblsky --  
19 A. I was keeping Patrick informed. He  
20 was my financial advisor.  
21 Q. And is the issue that you were  
22 intending to seek Mr. Kiblsky's opinion on  
23 suing Fund SK?  
24 A. No.  
25 Q. Then why are you telling him not to

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1 CONFIDENTIAL -- Claudio Khamis  
2 forward it to anyone?  
3 MR. BLOOR: Objection.  
4 You can answer.  
5 A. I didn't, as a conversation, and the  
6 content of the conversation a little bit -- a  
7 little bit complicated, because Bulgakov was  
8 Russian, so -- and it seemed to like a private  
9 conversation between Bulgakov and Izzo, and I  
10 wanted to respect the nature of their privacy  
11 and not have it being circulating all over the  
12 world.  
13 Q. And Mr. Bulgakov was attaching an  
14 analyst report by his organization Troika from  
15 January 2012; isn't that correct?  
16 A. I don't remember that it was coming  
17 with the same, but yes, I recognize this  
18 document.  
19 Q. And this is a document that you, in  
20 fact, had your attorneys produce in this case;  
21 correct?  
22 A. Yeah.  
23 Q. And are you familiar with these  
24 numbers on the bottom called Bates numbers?  
25 A. No.

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1 CONFIDENTIAL -- Claudio Khamis  
2 Q. Bates numbers are identifying numbers  
3 for each page of a document production in  
4 sequential order.  
5 A. Okay.  
6 Q. This email is a forward that has an  
7 attachment, and sequentially, we can see that  
8 the very next page is this document --  
9 A. I'm not disputing it was an  
10 attachment.  
11 Q. Did you review this Troika report?  
12 MR. BLOOR: At the time you received  
13 the email?  
14 MR. WALSH: At the time you received  
15 the email.  
16 A. Yes. I don't recall what it said, but  
17 I remember that I reviewed.  
18 Q. I would like you to look at page 26.  
19 Do you see the first full paragraph on that  
20 page?  
21 A. Up here?  
22 Q. The one starting however.  
23 A. Yes. I see.  
24 Q. Do you recall reviewing it -- let me  
25 read it into the record. It says:

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1 CONFIDENTIAL -- Claudio Khamis  
2 However, interestingly, BTA Banks's 2011  
3 forecast presented during the restructuring  
4 negotiations in summer 2010 do not differ too  
5 much on the P&L side from the actual performance  
6 on everything apart from asset recoveries. The  
7 bank expected to post a tenge 50 billion  
8 operating loss for the first full year. The  
9 actual number will be a bit lower but  
10 comparable, which should have been supplemented  
11 by Kazakhstan tenge 110 billion in provision  
12 recoveries. The actual number for the first  
13 nine months of 2011 is a loss of 66 billion  
14 Kazakh tenge.  
15 Did I read that accurately?  
16 A. Yeah.  
17 Q. Do you remember reading, in or about  
18 the beginning of February 2012, that the  
19 performance of the bank on the P&L side was  
20 actually very similar to what had been presented  
21 to the creditors as the plan, aside from asset  
22 recoveries?  
23 A. Can you repeat the question?  
24 Q. Yeah. It was an imprecise question  
25 Do you recall understanding, at the time

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1 CONFIDENTIAL -- Claudio Khamis  
2 that you read this, that Troika believed that  
3 BTA's performance post-restructuring on what  
4 it's calling the PL side is about the same as  
5 what BTA had presented to creditors as its  
6 expected plan, aside from its -- the speed with  
7 which it was able to recover assets?  
8 MR. BLOOR: Objection.  
9 A. This is, as you well said, this is  
10 Troika's opinion.  
11 But I don't remember reading in Troika a  
12 good explanation for what was -- for instance,  
13 the inclusion of liabilities in the -- in the  
14 balance sheet. There was also not a good  
15 explanations for the numbers in relation to  
16 massive amount of provisions doing previously --  
17 the whole information that was released seemed  
18 to have, as during the whole process, a lot of  
19 contradictory information.  
20 Q. Isn't it Troika's view, in January  
21 2012, that aside from asset recovery being  
22 slower than expected, the bank actually was  
23 performing --  
24 A. Listen, I'm not --  
25 MR. BLOOR: Let him finish the

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1 CONFIDENTIAL -- Claudio Khamis  
2 question.  
3 Q. -- in a way that did not differ too  
4 much from what was presented to creditors during  
5 the restructuring negotiations?  
6 MR. BLOOR: Objection.  
7 Are you asking if the report says  
8 that?  
9 MR. VIGNA: I am.  
10 MR. BLOOR: Well, I think the report  
11 speaks for itself.  
12 But do you agree that it says what  
13 he's reading?  
14 THE WITNESS: He's just reading one  
15 paragraph out of a series of reports that  
16 contain a lot of information that is  
17 inexplicable, and the report portrays  
18 Troika's opinion and assessment on --  
19 Q. So you think Troika was wrong?  
20 MR. BLOOR: Objection.  
21 A. Troika had a view, and Troika, at the  
22 time, didn't know that, after 2012, BTA would be  
23 publicizing in its web page that it would be  
24 recovering assets. There was a lot of  
25 information missing in terms of recovery --

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1 CONFIDENTIAL -- Claudio Khamis  
2 Q. Is it --  
3 A. So if you're referring to something  
4 very little precise, Troika might have been  
5 right. I don't know the previous report to  
6 compare it.  
7 But it's a report issued among many -- in  
8 an ocean of conflicting information.  
9 Q. What I think I've heard you testify to  
10 over the past couple of days is that you didn't  
11 think that recovery units should have been  
12 recorded as a liability on the balance sheet,  
13 and that the recovery efforts were too slow.  
14 Am I correct in understanding that you're  
15 complaining about those two things?  
16 MR. BLOOR: Objection.  
17 A. I think you're incorrect. You're  
18 synthesizing it. It's --  
19 What were the things that you just  
20 mentioned?  
21 Q. One is that you don't think that the  
22 recovery units should have been recorded on the  
23 balance sheet as a liability; and two, is that  
24 you think the recovery efforts were too slow?  
25 A. I certainly don't understand and

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1 CONFIDENTIAL -- Claudio Khamis  
2 didn't understand at the time why something that  
3 was portrayed by the information memorandum as  
4 segregated assets, put under a trust deed by  
5 Bank of New York, and by nature, be an  
6 off-balance-sheet item could have something to  
7 do with the balance sheet and be included as a  
8 liability, when it was contingent on recoveries.  
9 I just didn't understand it at the time.  
10 I'm not sure I understand it now, either.  
11 Q. Did you conduct any accounting  
12 research to try to determine if the accounting  
13 was proper for those recovery units?  
14 A. What accounting was prepared? The  
15 audited reports portrayed in 2011, or the  
16 numbers that SK released that a successful  
17 restructuring that they did, when they portrayed  
18 \$1.9 billion in capital? What numbers are you  
19 talking about?  
20 Q. I'm referring to the inclusion of  
21 recovery units on the balance sheet.  
22 Did you conduct any research of any sort to  
23 determine whether that was proper or not?  
24 A. I read the terms of information  
25 memorandum, and I relied on the terms of the

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1 CONFIDENTIAL -- Claudio Khamis  
2 information memorandum.  
3 Q. And we'll go through that. Actually,  
4 I have a question for you.  
5 Is it possible that you remember what is in  
6 the information memorandum incorrectly?  
7 MR. BLOOR: Objection.  
8 You can answer.  
9 A. You're talking about possibilities?  
10 Q. Yes.  
11 A. There's always a possibility that --  
12 not just me, everybody can forget about  
13 something, or not get something completely  
14 accurate.  
15 Q. So returning to my prior question, did  
16 you conduct any research to determine whether it  
17 was appropriate for BTA to record any aspect of  
18 the recoveries units on its balance sheet?  
19 A. I remember -- I don't recall all what  
20 I researched at the time. What I recall is  
21 reading the JP Morgan report and its assessment  
22 of what -- how they did. It wasn't correct.  
23 Eventually, I called somebody to get an opinion.  
24 But what I recall is that all opinions I  
25 received, everybody was annoyed by -- by this,

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1 CONFIDENTIAL -- Claudio Khamis  
2 by this strange way of accounting. That's what  
3 I would say.  
4 I would like to add something. It was so  
5 annoying that even though a big liability that  
6 only served to reduce capital was deemed by  
7 JP Morgan at the time as a -- as leaving the  
8 investment case intact, so it was just not me  
9 who was having trouble understanding how this  
10 correlates to the information memorandum and  
11 previous information, so there were other  
12 qualified persons analyzing the same accounting  
13 practices that also didn't agree with it.  
14 Q. Well, you certainly knew, by no later  
15 than the time you read the JP Morgan report,  
16 that some aspects of the recovery units were  
17 recorded on BTA's balance sheet; isn't that  
18 correct?  
19 A. Can you repeat that?  
20 Q. You certainly knew that a certain  
21 amount of the value of the recovery units was  
22 recorded on BTA's balance sheets --  
23 A. As a liability.  
24 MR. BLOOR: Objection.  
25 Q. Correct.

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2 You knew that as a fact, correct?  
3 MR. BLOOR: Objection.  
4 A. I -- I knew it was portrayed or able  
5 to know what was portrayed in the reports, and I  
6 don't know how many there were. I mean ...  
7 Q. So all of your investments after May  
8 of 2011, they weren't based on any  
9 misapprehension of how BTA was recording the  
10 recovery units on the balance sheets, was it?  
11 MR. BLOOR: Objection.  
12 A. I wouldn't -- I wouldn't agree with  
13 that.  
14 Q. Okay. Why would you disagree?  
15 A. Because I don't think so I had -- I  
16 don't have all relevant information to agree  
17 with this.  
18 Q. And is that because you didn't review  
19 BTA's financial statements?  
20 MR. BLOOR: Objection.  
21 A. I'm telling you that the very nature  
22 of this accounting practice was questioned.  
23 THE WITNESS: Can I take a break?  
24 MR. VIGNA: Sure.  
25 THE VIDEOGRAPHER: The time is

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1 CONFIDENTIAL -- Claudio Khamis  
2 3:01 p.m. This ends media number 2.  
3 (Whereupon, a brief recess was  
4 taken.)  
5 THE VIDEOGRAPHER: The time is  
6 3:12 p.m. This begins media number 3.  
7 Q. Mr. Khamis, putting aside whether the  
8 accounting for the recovery notes as liabilities  
9 on the balance sheet was questioned or not, you  
10 were fully aware that BTA was recording aspects  
11 of the recovery notes as liabilities on its  
12 balance sheet by no later than May 2011; isn't  
13 that correct?  
14 A. I don't recall the exact date. Yes,  
15 probably you're right, because the JP Morgan  
16 report, I think, is as of May of that date, and  
17 it was JP Morgan report that -- or Troika's  
18 later -- somebody portrayed it as kind of  
19 farfetched accounting practice, using the word  
20 serve to decrease capital.  
21 It's very weird that somebody would use the  
22 words serving to decrease capital and then  
23 assess that the investment case is intact.  
24 Q. So I think you've said of the oceans  
25 of things that you thought were inconsistent,

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1 CONFIDENTIAL -- Claudio Khamis  
2 one was recording recovery note values as a  
3 liability on the balance sheet. The next one I  
4 think we were talking about was the speed with  
5 which BTA was recovering assets; is that  
6 correct?  
7 A. I don't recall referring as a speed,  
8 but certainly the amount of provisioning made in  
9 the first restructuring, the time that it took,  
10 the participants involved, the amount of money  
11 spent, the hundreds of millions spent on western  
12 advisors and experts, to do the restructuring  
13 that was deemed successful, it was very hard to  
14 reconcile that and reconcile those figures  
15 portrayed at the first restructuring, what was  
16 then later portrayed as audited results that  
17 were put into question as accounting practices  
18 right from the market.  
19 Q. Are you still referring to the  
20 recovery notes?  
21 A. I'm referring -- I'm referring at your  
22 question.  
23 Q. Okay. In this lawsuit, do you take  
24 issue with the manner in which BTA recovered  
25 assets?

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1 CONFIDENTIAL -- Claudio Khamis  
2 A. Excuse me?  
3 Q. In this litigation, are you taking  
4 issue with the manner in which BTA sought to  
5 recover assets?  
6 A. I would have to review the  
7 allegations, but we certainly have questions  
8 that, I don't know if they are a part of the  
9 complaint or not, regarding the recovery of  
10 assets and the fact that the recovery units  
11 structure placed under the trust deed, with a  
12 lot of mechanism placed about recovering assets.  
13 that seemed very serious at the time, didn't  
14 recover one penny for the recovery units sold.  
15 And the fact --  
16 MR. BLOOR: Let him ask the next  
17 question.  
18 Q. Are there any allegations in the  
19 complaint at all about this trust document that  
20 you keep referring to?  
21 MR. BLOOR: Objection. He said he'd  
22 have to review the allegations, so if  
23 you'd like him to do that, you can.  
24 Q. You've been testifying over the past  
25 day and a half about recovery -- about recovery

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1 CONFIDENTIAL -- Claudio Khamis  
2 efforts  
3 Do you believe that BTA's recovery efforts  
4 were fraudulent?  
5 MR. BLOOR: Objection.  
6 You can answer  
7 A. We're bringing up a complaint alleging  
8 fraud. It is my understanding that we don't  
9 know all the facts as of today, still, but I  
10 would say that the fraud is at least of the  
11 magnitude that we allege.  
12 Q. What is the magnitude of the fraud  
13 that you believe occurred at BTA?  
14 A. I haven't done my fact discovery  
15 process. I think we are in the middle of the  
16 deposition process.  
17 Q. Putting aside what facts have entered  
18 into the record in this case to date, what is  
19 the magnitude of the fraud that you believe  
20 occurred at BTA?  
21 A. As I told you, I'm not going to -- I'm  
22 not going to lay out beliefs, and as of today,  
23 I'm not ready to -- fact finding.  
24 Q. So as of today, the allegations for  
25 which you intend to proceed to trial are the



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1 CONFIDENTIAL -- Claudio Khamis  
2 ones in the complaint?  
3 MR. BLOOR: Objection.  
4 You can answer.  
5 A. I think you're right.  
6 Q. Okay. Do you believe that you had a  
7 better understanding of BTA's finances than  
8 Troika did?  
9 MR. BLOOR: Objection.  
10 You can answer.  
11 Well, go ahead.  
12 A. I don't know how to -- what to make  
13 out of the -- out of your question.  
14 I think Troika was doing its best effort to  
15 analyze with whatever information they had  
16 available. I was doing the same on my side.  
17 That's everything that I have to say about it.  
18 I wouldn't put a relative value on who is  
19 better or who is worse, making specific  
20 assessments.  
21 Q. Mr. Khamis, I'd like you to take out  
22 Exhibits 24 and 43, one of which is the  
23 complaint and one of which is this IM, which is  
24 easy to find.  
25 A. Exhibit?

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1 CONFIDENTIAL -- Claudio Khamis  
2 Q. 24, which is the amended complaint,  
3 and 43, which is the IM.  
4 A. It's going to get mixed so fast, a  
5 disaster.  
6 Okay, I think I have both.  
7 Q. Can you turn to paragraph 3 of the  
8 complaint, which is on page 2?  
9 And that's the paragraph that alleges that  
10 the information memorandum and deed of  
11 undertaking emphasized that SK Fund had agreed,  
12 with very limited exception, to accept no  
13 dividends or distributions from BTA Bank; is  
14 that accurate?  
15 A. Yeah, that's correct.  
16 Q. Are you familiar with any place in  
17 either the information memorandum or the deed of  
18 undertaking where Fund SK agreed not to take  
19 distributions from BTA Bank?  
20 A. I remember reading the pages, but I  
21 just don't have them memorized, but I'm sure  
22 if you give me an afternoon and I can start  
23 reading it again, those 700 pages, I'm sure I  
24 can find it. It were one of the two things that  
25 were very much analyzed, because they were

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1 CONFIDENTIAL -- Claudio Khamis  
2 interpreted as very good signs at the point of  
3 the first restructuring.  
4 Q. Why don't we spend a couple of hours  
5 looking at the IM. Why don't we start at  
6 page 70, where I think Mr. Walsh has already  
7 directed your attention --  
8 A. Page what?  
9 Q. 70.  
10 While you're reading that, would you agree  
11 that this page 70 is in the section of the IM  
12 called undertakings by the banks and  
13 Samruk-Kazyna?  
14 A. Yes.  
15 Q. And is this what you were considering  
16 the deed of undertaking?  
17 A. I would have to review the whole  
18 information memorandum to see where the part is  
19 that I read at the time.  
20 Q. Now, I see on page 70 where it says  
21 the bank will undertake --  
22 A. Yeah, I think you're referring me to  
23 page 70, but I would have to start flipping  
24 again this document to look for the stuff that  
25 I --

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1 CONFIDENTIAL -- Claudio Khamis  
2 This seems to be talking about the GDRs  
3 here, no?  
4 Q. Near the bottom where it talks about  
5 dividends.  
6 A. Where are you talking, where are you  
7 looking at, the last part?  
8 Q. Yes.  
9 A. Yes, we looked at it already with  
10 Mr. Walsh.  
11 Q. Yeah, and I see there where it says  
12 that the bank will undertake that no dividend,  
13 other than a permitted dividend, shall be paid  
14 on the shares, so I understand the aspect of  
15 your allegation that says SK undertook not to  
16 receive dividends other than in certain  
17 circumstances.  
18 A. No. They --  
19 MR. BLOOR: He hasn't asked you a  
20 question  
21 Q. So I understand that portion of your  
22 allegation.  
23 Is there a different section of the IM that  
24 you believe in which Fund SK undertook not to  
25 take any distributions from BTA?



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1 CONFIDENTIAL -- Claudio Khamis  
2 A. Yes. The problem is finding it now.  
3 Q. Perhaps you can look at it at a break,  
4 and we'll go through some other sections here.  
5 Are you aware of any dividends Fund SK took  
6 on its share in BTA?  
7 A. The complaint alleges directly the  
8 structure that was put in place, that is the  
9 negative carry swap. It is a structure that not  
10 permitted the owner of -- of the bank and I  
11 think some operations where the National Bank of  
12 Kazakhstan, the structure to make a big profit  
13 by taking the money from BTA Bank paying, and  
14 that's two percent for that money, and then lend  
15 the money back to BTA roughly ten percent or a  
16 range of interest rates that were very high,  
17 some of them close to ten percent.  
18 So -- so that's what I would say, calling  
19 to your -- to your allegations, we see it as a  
20 distribution, as a way of taking out money from  
21 the bank.  
22 Q. Okay. So you're not contending that  
23 any of that was a dividend, are you?  
24 MR. BLOOR: Objection.  
25 Are you asking in the complaint what

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1 CONFIDENTIAL -- Claudio Khamis  
2 he's contending?  
3 MR. VIGNA: Whether it's in the  
4 complaint or today.  
5 A. That there was a dividend in the  
6 strict form of dividend, or in relation to what  
7 a dividend is?  
8 A dividend is a distribution paid by -- to  
9 the equity holders coming usually in the form of  
10 cash.  
11 Q. Right. It's a return on equity, not a  
12 return on bonds or on deposits, is it? There's  
13 a difference between a dividend and interest on  
14 a deposit and interest on a note, isn't there?  
15 A. I would -- I would highlight that that  
16 dividend, in a broad term, is any payback that  
17 equity gets out of -- out of a company.  
18 Q. And what are you basing that  
19 understanding of the word on?  
20 A. Listen, I'm not a lawyer, so I  
21 wouldn't go into the legal definition.  
22 But a distribution to the shareholders,  
23 especially like, one like -- like the one that,  
24 in hindsight, was clear that it was a  
25 distribution and part of a bigger finance,

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1 CONFIDENTIAL -- Claudio Khamis  
2 financial flows, so that there was a negative  
3 impact on the equity, it was a negative flow of  
4 resources from the bank to the owners of the  
5 bank.  
6 I would say that it's a distribution and  
7 conceptually very much close and not a dividend.  
8 Q. And so is it --  
9 You also owned equity in BTA, didn't you?  
10 MR. BLOOR: At a specific point in  
11 time?  
12 Q. You owned equity in BTA between 2010  
13 and possibly even until today?  
14 A. My equity was negligible.  
15 Q. You owned GDRs at one point, didn't  
16 you?  
17 A. Negligible position.  
18 Q. And as an equity holder, are you  
19 contending that the interest that you earned on  
20 your subordinated notes for a while was  
21 dividends?  
22 MR. BLOOR: Objection.  
23 A. I think -- I think I wasn't  
24 controlling the bank. I wasn't charging highly  
25 negative or I have a very, an extremely high

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1 CONFIDENTIAL -- Claudio Khamis  
2 interest rate, as compared to -- to the negative  
3 carry transaction, so one side was receiving two  
4 percent and the other one ten as a financial  
5 transaction that is only controlled by the  
6 owners, so in this case, SK and -- and SK also  
7 as a controlling shareholder of BTA.  
8 Q. Okay. Is it your position, as an  
9 economist, that all distributions that are  
10 obtained by a controlling shareholder are  
11 dividends?  
12 MR. BLOOR: Objection.  
13 A. I wouldn't go that broad.  
14 But certainly, the negative carry swap,  
15 given that it was a structure placed without any  
16 other financial transaction to offset it, it was  
17 dragging negatively, the capital of the bank, to  
18 the hands of the controller.  
19 Q. So your position is that in the unique  
20 circumstances of these facts of this case, what  
21 Fund SK earned were dividends, even though in  
22 normal English it would never be considered  
23 dividends?  
24 MR. BLOOR: Objection.  
25 A. I would say that it was definitely got

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1 CONFIDENTIAL -- Claudio Khamis  
2 dividends or distributions that were not  
3 permitted.  
4 Q. Okay. As an economist, have you ever  
5 seen the word dividend used in that way any time  
6 in your career?  
7 MR. BLOOR: Objection.  
8 You can answer.  
9 A. As I said, dividend, the basic concept  
10 of dividend is the money that the shareholder  
11 takes for himself, usually as the result of a  
12 good performance by the company.  
13 Q. Okay. Well, that's something.  
14 Did the distributions that Fund SK received  
15 as result of its deposits and as a result of the  
16 repo transaction have anything to do with the  
17 performance of BTA?  
18 A. Well, I think that's exactly the core  
19 allegation for fraud.  
20 Q. Okay. Just so it's clear on the  
21 record, your position is that the interest that  
22 Fund SK earned on its deposits in the bank were  
23 dividend?  
24 MR. BLOOR: Objection. I don't  
25 think that's what he said.

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2 But you can answer.  
3 A. I think I answered this question. I  
4 mean, you're repeating yourself.  
5 Q. I really would like an answer to this.  
6 I'm entitled to this, Mr. Khamis.  
7 Is it your position --  
8 A. You're entitled to make the question,  
9 I'm entitled to answer.  
10 I think I gave my answer already.  
11 Q. Okay. Mr. Khamis, can you please  
12 answer for me whether it is your position that  
13 the interest that Fund SK earned on its deposits  
14 in BTA were dividends?  
15 MR. BLOOR: Objection.  
16 A. The way you're phrasing the question  
17 is splitting the negative carry swap into pieces  
18 to try to make it look a legitimate transaction  
19 when it was not.  
20 There is no economic reason for the owner  
21 of a bank, the controller of a bank, and the  
22 management of a bank, to engage into such a  
23 transaction, especially when it was incestuous  
24 in nature, in which -- in which an owner that  
25 was supposed to alleviate the financial

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1 CONFIDENTIAL -- Claudio Khamis  
2 condition of the bank, that was portraying as a  
3 successful restructuring, is siphoning a  
4 negative carry swap. This is why it is a swap  
5 and not just a deposit.  
6 And if it was a deposit, it would be  
7 interesting to understand why the management of  
8 a bank would accept such big deposits at such  
9 high interest rates and how they fit into the  
10 business model of the bank.  
11 Q. Well, you understand that banks fund  
12 themselves, in part, from deposits; isn't that  
13 true?  
14 A. Banks funds themselves through  
15 different sources.  
16 Q. And isn't it true that BTA's  
17 commercial and retail deposits plummeted  
18 drastically in 2009 and 2010?  
19 MR. BLOOR: Objection.  
20 You can answer.  
21 A. During the restructuring, a lot of  
22 things happened to the bank. Part of the work  
23 of a very successful restructuring process is to  
24 stabilize the bank and have an ongoing concern,  
25 and this was portrayed, at the time of the

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1 CONFIDENTIAL -- Claudio Khamis  
2 release of the information memorandum and the  
3 finishing of the restructuring, of the first  
4 restructuring in 2010, deemed as a successful  
5 process.  
6 Q. Okay. Are you aware of whether BTA's  
7 commercial and retail deposits decreased in 2009  
8 and 2010?  
9 MR. BLOOR: Objection.  
10 You can answer.  
11 A. I'm aware that a lot of parameters  
12 were in the period of time when they were under  
13 stress.  
14 Q. Is it your belief that the deposits  
15 made by Fund SK received any higher interest  
16 rates than the deposits that were also offered  
17 to BTA's other commercial depositors?  
18 MR. BLOOR: Objection.  
19 You can answer.  
20 A. My -- my belief is that the negative  
21 carry swap is a transaction that you cannot  
22 split apart. It's a swap and should not be  
23 analyzed into pieces. It should be analyzed as  
24 the swap that was put in place.  
25 Q. Isn't the part of the swap that cost

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1 CONFIDENTIAL -- Claudio Khamis  
2 BTA money the deposits?  
3 A. Excuse me?  
4 Q. Isn't the aspect of what you're  
5 calling a swap that cost BTA money the deposits?  
6 A. That cost BTA money?  
7 Q. Yes.  
8 A. What is your question?  
9 Q. The aspect of what you're calling the  
10 negative carry swap that resulted in outflows of  
11 cash from the company were the deposits; isn't  
12 that true?  
13 A. When we talk about the outflows, we  
14 talk about the negative outflow, and the  
15 negative outflow was composed by the outflow  
16 paid to -- to the outflowing stream of funds  
17 that was flowing out through the different  
18 operations  
19 If my memory is right, and I would have to  
20 refresh my memory, SK and National Bank of  
21 Kazakhstan were on one side and on the other  
22 side was BTA.  
23 Q. Okay. So if you're talking about the  
24 National Bank of Kazakhstan as well, it was well  
25 understood by you and everyone else that the NBK

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1 CONFIDENTIAL -- Claudio Khamis  
2 lent certain money to BTA and was receiving  
3 interest on that money lent; isn't that true?  
4 A. Excuse me?  
5 Q. And received interest on that money  
6 that was lent by the NBK; isn't that true?  
7 MR. BLOOR: Objection.  
8 You can answer.  
9 A. That the National Bank of Kazakhstan  
10 received a flow?  
11 Q. At least they had --  
12 The loans contained an interest rate. We  
13 can put completely put aside whether BTA  
14 ultimately paid any of the interest to the NBK  
15 or paid any interest to the Fund SK, but at  
16 least the loans had an interest rate that BTA  
17 owed to the NBK; correct?  
18 A. That BTA owed?  
19 Q. Owed, yes.  
20 A. Well, I think that's the very nature  
21 of negative carry swap.  
22 Are you not talking about it? I'm not  
23 understanding your question.  
24 Q. I understand where the confusion.  
25 I'm trying to distinguish the inflows and

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1 CONFIDENTIAL -- Claudio Khamis  
2 outflows of what you're calling the negative  
3 carry swap.  
4 A. We can look at the Troika report. I  
5 think it's very well laid out there, and I think  
6 we produced it to you.  
7 Q. Okay. Is it your understanding of  
8 what you're calling the negative carry swap  
9 what's depicted in the Troika report?  
10 A. I think the Troika report made a very  
11 good assessment of what the negative carry swap  
12 was.  
13 Q. So certainly, as of the time you  
14 received the Troika report, you understood the  
15 negative carry swap; isn't that true?  
16 MR. BLOOR: Objection.  
17 A. Again, we went through about this  
18 yesterday.  
19 The negative carry swap, when it was first  
20 exposed, since the way it was structured meant a  
21 grotesque outflow and a transaction that was  
22 very damaging for the bank, for the capital of  
23 the bank. It was very hard to understand how  
24 that could -- could exist and would be  
25 consistent with the terms of a successful

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2 restructuring.  
3 Q. We'll go through all the terms of the  
4 restructuring -- excuse me --  
5 A. Yes. I want to finish my question.  
6 Q. Go ahead. I'm sorry.  
7 A. You cut me off.  
8 Q. That was inappropriate. I apologize.  
9 A. Can we --  
10 MR. VIGNA: You can read back the  
11 last section.  
12 (Whereupon, the requested testimony  
13 was read back by the reporter.)  
14 A. Correct, so what wasn't clear at the  
15 time is it transitory or not? Then, after the  
16 presentation of this, state people were talking  
17 about it as a necessity to be fixed, so it was  
18 deemed to be transitory. We didn't know if  
19 there was another transaction or another part of  
20 the swap that was not disclosed, or we didn't  
21 understand it, to offset for such damaging  
22 practice by the owners and the bank and to the  
23 detriment of the bond holders.  
24 Q. Is it your position --  
25 A. And I have to add one more thing.

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2 This became even more confusing or more  
3 questionable if that, if what was portrayed by  
4 the bank was really truth, why would Halyk look  
5 into buying several months later of this  
6 portrayed situation, the interest in buying  
7 bonds, when every logic analysis would say that  
8 if this it permanent and was there without being  
9 taking care of, the value of bonds would be  
10 dramatically affected.  
11 And Mr. Kulibayev was the owner of Halyk at  
12 that time, but was also the head of SK at the  
13 time, and the same organization that was in  
14 charge of the whole restructuring.  
15 So as I have mentioned during the past two  
16 days, even though you try to break up something  
17 into pieces to try to make it seem presentable,  
18 the whole, the overall picture was not.  
19 Q. Okay. You said a lot there, so let's  
20 try to break it down.  
21 When did Mr. Kulibayev become the chairman  
22 of SK?  
23 A. I don't have the recollection, but  
24 it's public information.  
25 Q. Do you have any belief that it was

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2 before the 2010 restructuring?  
3 A. It was not that long ago, probably  
4 2009, 2010, 2008 or after. I don't have the --  
5 It was part of the ocean of information  
6 that was out there, and I don't have a clear  
7 recollection of when that was.  
8 Q. So what you are calling the negative  
9 carry swap, am I correct in understanding that  
10 the two outflows are interest owed to the NBK on  
11 the money lent and interest owed on Fund SK's  
12 deposits? Is that --  
13 Are those the outflows?  
14 A. I would, in broad terms, yes, the way  
15 it was portrayed.  
16 Q. Did you understand that the money that  
17 the NBK lent to BTA was interest-bearing?  
18 MR. BLOOR: Objection.  
19 And just to be clear, what time  
20 period are you talking about? The 2011  
21 time period or --  
22 MR. VIGNA: That's actually an  
23 excellent question. We'll break it down.  
24 Q. As of the time that you reviewed the  
25 IM, did you understand that?

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1 CONFIDENTIAL -- Claudio Khamis  
2 A. That it was a negative carry swap  
3 case?  
4 Q. That the money that the NBK lent to  
5 BTA was interest-bearing?  
6 A. At the time the information memorandum  
7 was presented, there were some -- some things  
8 mentioned about operations with the NBK, if I  
9 recall correctly.  
10 But I don't recall having seen in the  
11 information memorandum any mention to the amount  
12 of interest, to the rates, and specifically to  
13 any swap operation, including such a big gap  
14 between rates received by the bank and rates  
15 paid for the use of -- by the bank and paid by  
16 the same bank.  
17 Q. Is it your position that the Nation of  
18 Kazakhstan was not entitled to interest on the  
19 money that it lent to BTA?  
20 MR. BLOOR: Objection.  
21 A. Excuse me?  
22 Q. Is it your position that the Nation of  
23 Kazakhstan was not entitled to interest on money  
24 it lent to BTA?  
25 A. I'm not anybody -- I'm not a person

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2 here to make judgments on what the government of  
3 Kazakhstan is entitled to.  
4 But what I can say is that, at the moment  
5 of the financial crisis in every civilized  
6 nation, the support given by central banks and  
7 authorities was at very, very low rates or  
8 almost close to zero, and so a very low rate  
9 compared to up to ten percent or including a  
10 little bit over ten percent, seems a little bit  
11 annoying for a -- for a portrayed support  
12 effort.  
13 Q. Was it simply your assumption that the  
14 money that the Nation of Kazakhstan, the  
15 National Bank of Kazakhstan lent to BTA was at a  
16 zero or close to zero interest rate?  
17 A. No. We -- I didn't -- I was looking  
18 at the restructuring process in a holistic way,  
19 and a vital condition of a restructuring any  
20 company, not just a bank, is that it comes out  
21 of the restructuring as a going concern.  
22 THE WITNESS: I have to go to the  
23 bathroom.  
24 THE VIDEOGRAPHER: The time is 3:48.  
25 We are going off the record.



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2 (Whereupon, a brief recess was  
3 taken.)  
4 THE VIDEOGRAPHER: The time is  
5 4:03 p.m. We are back on the record.  
6 Q. Mr. Khamis, are you ready?  
7 A. Yes.  
8 Q. Before the break we were talking about  
9 the loans from NBK, which I think we discussed  
10 is one of the two outflows from BTA. Did you  
11 review the portions of the information --  
12 When you reviewed the information  
13 memorandum online, did you review the section of  
14 the IM called NBK support?  
15 MR. BLOOR: Objection to form.  
16 A. I don't recall the -- I don't have  
17 specific recollections on the information  
18 memorandum.  
19 Overall, I recall certain things. I recall  
20 some transactions, maybe, described between --  
21 between NBK or SK and BTA, but the main focus of  
22 this time to go to most my attraction was that  
23 BTA Bank wouldn't pay itself or wouldn't pay --  
24 that SK wouldn't get the dividends paid or  
25 distributions after bonds would be repaid or

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1 CONFIDENTIAL -- Claudio Khamis  
2 after an amount of years.  
3 And the precise pages of the information  
4 memorandum was not page 70 like you were showing  
5 me, but page 32.  
6 And the piece of the information memorandum  
7 on recovery units.  
8 Q. Now, are you just referring to page 32  
9 as defining permitted dividend?  
10 A. The definition of permitted dividend.  
11 Q. Okay. I guess I'm not  
12 understanding --  
13 A. It says here permitted dividend means  
14 dividend or distribution, the wording:  
15 By the bank to its shareholders, at any  
16 time after the new notes have been revoked  
17 clearly -- irrevocably paid in full, at any time  
18 after the date falling four years after the  
19 restructuring.  
20 This is what I was reading at the time.  
21 Q. So you didn't read the rest of the  
22 document to see if there were specific  
23 discussions of the interests that --  
24 Please, let me finish my question.  
25 -- so you didn't review the rest of the

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1 CONFIDENTIAL -- Claudio Khamis  
2 document to see if there were specific  
3 discussions of, for example, the interest that  
4 Fund SK was earning on its deposits?  
5 MR. BLOOR: Objection.  
6 A. I disagree with your statement.  
7 Q. Okay. So you did review the IM to  
8 determine if Fund SK was earning any interest on  
9 its deposits?  
10 A. I reviewed the IM. The IM is a very  
11 extensive document, around 600 or something  
12 pages.  
13 And the only thing that caught my attention  
14 were the main two things I discussed, and I  
15 remember seeing some transaction between one of  
16 the two entities and the bank.  
17 Q. So even the portions that you were  
18 drawing my attentions to, pages 32 and 70, talk  
19 about monies to Fund SK, can you recall anything  
20 in the IM that might have suggested that  
21 interest was not going to be paid to the  
22 National Bank of Kazakhstan on the loans that  
23 the NBK had made to BTA?  
24 MR. BLOOR: Objection.  
25 A. When -- when the information

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1 CONFIDENTIAL -- Claudio Khamis  
2 memorandum was released, and I don't think that  
3 long after, there was a lot of talk about the  
4 bank being sold to Sberbank.  
5 So the understanding of the information  
6 memorandum was an understanding as a general  
7 document, and certainly we didn't expect  
8 party-related transactions with a negative carry  
9 swap embedded for this big margin.  
10 Q. So just to be clear, the phrase  
11 negative carry swap is a phrase that was first  
12 coined by Troika; isn't that correct?  
13 A. I don't -- I don't recall.  
14 Q. It was something that an analyst was  
15 noticing, that there was some money coming in  
16 and there was some money going out, and the  
17 analyst chose to call it a negative carry swap;  
18 isn't that true?  
19 MR. BLOOR: Objection.  
20 A. I don't know where the term comes  
21 from.  
22 Q. There is no such thing as a negative  
23 carry swap, is there?  
24 MR. BLOOR: Objection.  
25 Q. As an economist?



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2 A. There is. It was in place, the  
3 negative carry swap. It was in place. It was  
4 factually in place. This set of transactions  
5 implying a swap, a swap to the detriment of the  
6 capital to the bank.  
7 Q. Okay. What's a swap, Mr. Khamis?  
8 A. The swap, in this case, is -- is  
9 outflows of money from BTA getting paid two  
10 percent and the same money coming back at ten  
11 percent. It's sort of a --  
12 MR. BLOOR: I think you answered.  
13 Let him ask the next question.  
14 Q. Aren't you simply using the word swap  
15 as shorthand for some money coming in and other  
16 money going out?  
17 MR. BLOOR: Objection.  
18 A. I'm using the word swap to describe  
19 what happened in the structure that was put in  
20 place for the allegation of this complaint.  
21 Q. There is certainly no agreement  
22 between BTA and any other entity called a  
23 negative carry swap, is there?  
24 MR. BLOOR: Objection. You've been  
25 using the term the entire deposition,

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1 CONFIDENTIAL -- Claudio Khamis  
2 so --  
3 But you can answer.  
4 A. Excuse me. What was your question?  
5 Q. There certainly is no agreement  
6 between BTA and any other entity or entities  
7 called a negative carry swap?  
8 MR. BLOOR: Objection.  
9 A. I never had the chance to review the  
10 documents, I assume, by the thousands, for the  
11 agreements to be described by BTA Bank.  
12 Q. Are you aware of any agreement that is  
13 called a negative carry swap that's ever been  
14 entered into by BTA?  
15 A. By BTA?  
16 Q. Yes.  
17 A. I wouldn't know if there's one.  
18 Q. Okay. Getting back to the question  
19 that I was asking earlier, on pages 32 and 70 of  
20 the information memorandum, are there any  
21 representations that BTA would not pay interest  
22 on money lent to it by the National Bank of  
23 Kazakhstan?  
24 A. Are there any --  
25 Can you rephrase your question?

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1 CONFIDENTIAL -- Claudio Khamis  
2 Q. Are there any representations on  
3 pages 32 and 70 of the information memorandum  
4 that BTA Bank would not pay interest on the  
5 money lent to it by the National Bank of  
6 Kazakhstan?  
7 MR. BLOOR: So take a look at where  
8 he's referring, 32 and 70.  
9 A. There was a wording here that speaks  
10 about distributions within the dividend.  
11 Q. And that was related to Fund SK; isn't  
12 that correct?  
13 A. Distributions by the bank to its  
14 shareholder. I don't know if the National Bank  
15 of Kazakhstan held any shares at the time.  
16 Probably not.  
17 Q. Did you, at the time that you made  
18 your investments --  
19 A. Sorry. I have to correct my  
20 statement, my response. Actually, I was wrong  
21 with my response.  
22 The National Bank of Kazakhstan and SK are  
23 owned by the government of Kazakhstan, so they  
24 are the same shareholders.  
25 Q. You understand that Fund SK is a

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2 corporation?  
3 A. I understand SK as being a vehicle to  
4 protect investments for the people of  
5 Kazakhstan.  
6 Q. It's a joint stock company, isn't it?  
7 That's why it's called --  
8 MR. WALSH: JSC  
9 A. Listen, you are going into legal  
10 terminology, which I'm -- I'm not a lawyer --  
11 MR. BLOOR: Just let him ask a  
12 question  
13 Q. If you were to look at the caption of  
14 your complaint, Fund SK is referred to as  
15 Sovereign Wealth Fund "Samruk-Kazyna" JSC; isn't  
16 that correct?  
17 A. Yes.  
18 Q. Do you know what a JSC is?  
19 A. No.  
20 Q. Is it your testimony that when you saw  
21 an undertaking by Fund SK in the information  
22 memorandum, you believed that it also applied to  
23 the National Bank of Kazakhstan?  
24 A. Excuse me?  
25 Q. Is it your testimony that when you saw

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1 CONFIDENTIAL -- Claudio Khamis  
2 an undertaking in the information memorandum by  
3 Fund SK, you thought that it also bound the  
4 National Bank of Kazakhstan?  
5 A. I'm -- I'm not a lawyer.  
6 What I'm pointing is that both entities are  
7 controlled by the government of Kazakhstan.  
8 Q. Do you recall ever reviewing the  
9 section of the information memorandum called NBK  
10 support?  
11 A. I don't recall specifics of the  
12 information memorandum, besides what I already  
13 mentioned.  
14 But I know that NBK was involved in the  
15 restructuring at some point. I don't remember  
16 when.  
17 Q. If you wanted to find out what the  
18 interest rate was on the loans that the NBK made  
19 to fund, to BTA, do you think that the  
20 section of the IM called NBK support might be a  
21 good place to look?  
22 A. Let's look at NBK support.  
23 Q. It's on page 178.  
24 A. 178?  
25 Q. Does it discuss in here that the bank

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1 CONFIDENTIAL -- Claudio Khamis  
2 may apply for refinancing loans and loans to  
3 banks and organizations carrying out banking  
4 activities, the interest rate of which equals  
5 the official refinances rate?  
6 A. Where does it say that?  
7 Q. At the top of the second paragraph in  
8 the NBK support section.  
9 MR. BLOOR: That's right where  
10 you're looking.  
11 A. Yes. Here there are no mentions to  
12 specific rates  
13 Q. And do you believe that the official  
14 refinances rate is a rate that may be published  
15 by nation of Kazakhstan regularly?  
16 A. I wouldn't know about it at the time,  
17 what the official refinancing, refinance rate  
18 would have -- would have been published.  
19 It would have been good if they published  
20 in the information memorandum what the range of  
21 that rate was or what the range of the rate at  
22 the time of the issuing information memorandum  
23 was.  
24 And it certainly doesn't, when they speak  
25 about entering into a corporation agreement for

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1 CONFIDENTIAL -- Claudio Khamis  
2 the bank to apply for two types of loans, loans  
3 that were funded with the same money that BTA  
4 was giving at two percent, wasn't it the nature  
5 of the negative carry swap?  
6 Q. Did you look anywhere else in this  
7 document to see if, perhaps, the range, the  
8 official refinance rate from the previous year,  
9 was disclosed anywhere?  
10 A. I looked generally through the  
11 information memorandum, and I didn't find it any  
12 place that structure was put in place that would  
13 drag the capital of the bank at the rate of like  
14 300 million each year, just this one stretch.  
15 Q. Now, when you're saying that the bank  
16 had to pay -- bank was obligated to pay  
17 somewhere in the neighborhood of \$300 million a  
18 year, that's simply interest due on its loans  
19 and its deposits; isn't that correct?  
20 A. I don't have all the details at this  
21 moment, the negative carry swap.  
22 Q. Typically, loans accrue interest,  
23 don't they?  
24 A. Loans that involve state support would  
25 be one type of loans. Commercial loans would be

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1 CONFIDENTIAL -- Claudio Khamis  
2 others. There are many different classification  
3 of loans and for very different risk. Low risk  
4 loans usually take a very little rate.  
5 And this was a bank that was wholly owned  
6 by the state and was supported by the state and  
7 was in a process of getting in health. How  
8 could a bank like this be subject to rates that  
9 were not comparable for support rates by  
10 other -- by other governments at the same time  
11 of the crisis?  
12 I mean, you asked me if I saw, in my career  
13 as economist, something else. Well, in my  
14 career as an economist, I never saw a bank being  
15 helped charging it ten percent.  
16 Q. So do you have any reason to believe  
17 that the official refinance rate was ten  
18 percent?  
19 A. I know the end result and the end  
20 impact of the negative carry swap and that the  
21 rates paid by the bank were extremely higher  
22 than the rates received by the bank from those  
23 partners that were government owned.  
24 Q. And do you have any reason to believe  
25 that the rate at which the NBK lent money to the

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1 CONFIDENTIAL -- Claudio Khamis  
2 Nation of Kazakhstan was any higher than BTA  
3 could have received from a commercial lender?  
4 A. Again, we're talking here about -- you  
5 keep on trying to break this into pieces and  
6 make some obstruction of the facts.  
7 The fact here is that this was a bank that  
8 a -- was being restructured by the government.  
9 This is not a bank that is engaging in a  
10 commercial practice. If the role of the  
11 government would have been fully portrayed or  
12 fully -- how do you say -- if the restructuring  
13 would have been really well done, being the  
14 bank, quasi-sovereign at the time when this  
15 information memorandum, pretty much, was  
16 released, they wouldn't have had problems to  
17 fund themselves.  
18 The fact that they had problems means that  
19 the -- that the government of Kazakhstan and the  
20 management of the bank were not doing things  
21 right, and one of the things that they were not  
22 doing right at the time was the negative carry  
23 swap.  
24 I don't see how the negative carry swap can  
25 be an operation that is good for the stability

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1 CONFIDENTIAL -- Claudio Khamis  
2 of the bank. If you can explain me that,  
3 because, I mean, you're making the point here  
4 all along.  
5 Q. I'm sure that your attorney will  
6 depose Fund SK, and we'll learn all about it.  
7 All of your statements seem to be based on  
8 the assumption that the Nation of Kazakhstan  
9 should have been written a blank check to BTA.  
10 Is that your position?  
11 MR. BLOOR: Objection.  
12 A. I disagree with you  
13 Q. How do you disagree?  
14 A. I disagree with your statement. I  
15 think your statement is incorrect.  
16 Q. So part of your statement is that the  
17 Nation of Kazakhstan shouldn't have charged  
18 interest or should not have charged as much  
19 interests as it did; is that correct?  
20 MR. BLOOR: Objection.  
21 A. My position is that you engaged into  
22 intervene a financial institution, restructure  
23 it. You have to make sure that when the process  
24 is over is a viable concern, a going concern,  
25 and that its operation is sound, and one of the

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1 CONFIDENTIAL -- Claudio Khamis  
2 conditions for a bank to be operationally sound  
3 is to have a positive interest margin and not a  
4 negative interest margin.  
5 Q. Mr. Khamis, could you please look at  
6 what has been previously marked as Kiblsky 23.  
7 MR. BLOOR: 23?  
8 MR. VIGNA: Yes.  
9 Q. It's the UBS report from  
10 September 2nd, the day before the restructuring  
11 closed -- not before the restructuring closed,  
12 but before securities were exchanged.  
13 It looks like this.  
14 MR. BLOOR: Yeah, I know what it is.  
15 Let me see in this file.  
16 MR. VIGNA: And it was also an  
17 attachment to Khamis 23.  
18 MR. BLOOR: Look in that pile.  
19 MR. VIGNA: Let's go off the record  
20 for a minute.  
21 THE VIDEOGRAPHER: The time is 4:25.  
22 We are now off the record.  
23 (Whereupon, a discussion was held  
24 off the record.)  
25 THE VIDEOGRAPHER: The time is 4:26.

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1 CONFIDENTIAL -- Claudio Khamis  
2 We are back on the record.  
3 Q. So Mr. Khamis, you have before you  
4 what was previously marked as Kiblsky 23, which  
5 is a UBS investment research report from  
6 September 2nd, 2010; is that correct?  
7 A. Yes.  
8 Q. And you recall reviewing this at or  
9 about September 2, 2010; right?  
10 A. Correct.  
11 Q. Did you notice on page P00002008 --  
12 A. The third page?  
13 Q. Yes.  
14 A chart of net interest margin of Kazakh  
15 banks?  
16 A. Yeah.  
17 Q. Did you notice that BTA's net interest  
18 margin was negative eight percent?  
19 A. Yeah.  
20 Q. Did that indicate to you that BTA  
21 actually had a negative eight percent net  
22 interest margin as of September 2nd, 2010?  
23 A. No. You're wrong. Actually, your  
24 assessment is very wrong, and it's misleading.  
25 It says here very clearly, the second

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1 CONFIDENTIAL -- Claudio Khamis  
2 quarter, and the second quarter has never been  
3 September.  
4 Q. You're absolutely right, Mr. Khamis.  
5 Does this indicate as of July --  
6 A. As of June.  
7 Q. As of June 30th --  
8 A. June 30th.  
9 Q. -- 2010, BTA's net interest was  
10 negative eight percent?  
11 A. Correct. I remember looking at it.  
12 Q. Did you have an understanding of what  
13 contributed to the net interest at that time?  
14 MR. BLOOR: Objection.  
15 You can answer.  
16 A. Listen, when this -- this -- one more  
17 time, you are trying to break things into  
18 pieces.  
19 This report is issued when the terms of the  
20 first restructuring are made public. This  
21 definitely reflects here the dynamic of the  
22 previous months of certain parameters of the  
23 bank. You don't have a to be a rocket  
24 scientist, you don't have to be even a good  
25 economist. You just have to have a basic

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1 CONFIDENTIAL -- Claudio Khamis  
2 understanding of business, that you cannot be a  
3 going concern with a negative eight percent.  
4 When we look at the first page, and we  
5 don't have data here for the moment of which the  
6 restructuring is complete, restructurings are  
7 typically processes that are disorganized, that  
8 there is a lot of work to be done, a lot of  
9 factors to be corrected, especially in a big  
10 blowup of a financial institution, like it was  
11 portrayed at the time.  
12 So this parameters only indicate what was  
13 the situation of the bank prior to its fixing or  
14 during -- during the process of fixing. You  
15 cannot come out of a successful restructuring  
16 and no part of the information memorandum has a  
17 situation like this was portrayed or, at least,  
18 not in any visible part. It should be  
19 highlighted.  
20 And what was portrayed was precisely what  
21 the UBS report says. BTA bank, yesterday,  
22 announced a successful completion of its  
23 16.66 billion in debt restructuring.  
24 Liabilities went, under this restructuring, from  
25 11 billion to 4.

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1 CONFIDENTIAL -- Claudio Khamis  
2 Q. Is anything about that statement  
3 inaccurate?  
4 A. Of what statement?  
5 Q. Of what you just read, that the  
6 liabilities in restructuring were decreased from  
7 11 billion to 4 billion?  
8 A. It's -- it's what I'm saying is  
9 that -- that what it says here, they are -- they  
10 are deeming the restructuring was portrayed by  
11 the Kazakh authorities as a successful  
12 restructuring. It says BTA is well positioned  
13 to capitalize on its restructured balance sheet.  
14 How can you be well position with a  
15 negative eight interest margin? You cannot be  
16 an ongoing concern. The first condition to have  
17 a good restructuring is that to be a going  
18 concern.  
19 Q. And you understand that we just  
20 reviewed, looked at a couple minutes ago, and we  
21 can pull it up if need be, that the Troika  
22 report discussed that, even as part of the  
23 restructuring plan, the bank anticipated  
24 incurring losses going forward, it was simply  
25 that its liabilities had decreased; is that

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1 CONFIDENTIAL -- Claudio Khamis  
2 correct?  
3 A. Excuse me?  
4 Q. The Troika report, that we reviewed  
5 from January 2012 a few minutes ago, talked  
6 about the restructuring plan, the presentations  
7 to the creditors, acknowledging that the bank  
8 was likely to incur losses even after the  
9 restructuring; isn't that true?  
10 MR. BLOOR: Objection.  
11 You can answer.  
12 A. Incurring losses after restructuring,  
13 there was nothing at the moment of the release  
14 of the restructuring that talked about losses.  
15 What we saw, during the following months, was  
16 something that were measures taken that very  
17 questionable, not just by me, but by other  
18 analysts in terms of including off-balance-sheet  
19 items of liabilities without the offsetting  
20 asset.  
21 It looked like self-inflicted actions to --  
22 that serve as to decrease capital, nothing --  
23 nothing to do with what was portrayed as a  
24 successful restructuring. The statements --  
25 MR. BLOOR: Let him ask a question.



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1 CONFIDENTIAL -- Claudio Khamis  
2 Q. Why don't we turn to page 175 in the  
3 information memorandum, two pages, three pages  
4 that we were looking at a second ago, under  
5 liquidity support and the final paragraph where  
6 it discusses --  
7 A. Sorry, where are you looking at?  
8 Q. Page 175 under liquidity support, the  
9 final paragraph where it discusses Fund SK's  
10 deposits.  
11 A. So you're looking at the very last,  
12 where it says the date?  
13 Q. Yeah, at the date, yes, exactly.  
14 A. As of the date.  
15 Yes, I read it.  
16 What's the point you want to make?  
17 Q. Do you remember reviewing this before  
18 you made any of your investment --  
19 A. I don't have recollections of having  
20 read.  
21 Q. Would you agree with me that BTA  
22 disclosed that the deposits made by Fund SK are  
23 on the same terms as the bank's typical deposit  
24 agreements?  
25 A. If I agree with you, that that's what

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1 CONFIDENTIAL -- Claudio Khamis  
2 it says here?  
3 Q. Yes, exactly.  
4 A. Yes, it says that.  
5 I want to mark that it doesn't say what a  
6 typical deposit agreement is, the rate.  
7 Q. Why don't we look at page 201 where  
8 that is discussed.  
9 A. So the stuff that is referred here is  
10 20 pages ahead?  
11 Q. Yes. There is a section that --  
12 A. It's quite complicated to follow you.  
13 Q. Well, it is in the section called  
14 interest income, interest expense, net interest  
15 income, and provision for losses.  
16 Would you agree with me that that's a  
17 logical place to look for interest expenses?  
18 MR. BLOOR: Objection.  
19 A. What matters here, to have a very  
20 clear understanding right away of what an  
21 operation implies, is the capital being moved  
22 around and the interest rates charged.  
23 MR. BLOOR: All right. So let's  
24 just look at the section and see what his  
25 questions are.

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1 CONFIDENTIAL -- Claudio Khamis  
2 Q. So in the section --  
3 A. Where you say, 201, you say?  
4 Q. Yes, but you can look at page 200, the  
5 preceding page, to see the headings called  
6 interest income, interest expense, net interest  
7 income, and provision for losses.  
8 Do you see that on page 200?  
9 A. Page 200 or 201?  
10 Q. Just the headings on page 200.  
11 A. Yes. I see both.  
12 Q. Okay. And then there are subheadings.  
13 The first subheading is total interest income on  
14 page 200.  
15 Do you see that?  
16 A. Do you -- have you become aware,  
17 Mr. Vigna, that -- that the restructuring was in  
18 2010 and the numbers you are showing me are for  
19 2008 and 2009, the numbers portrayed on the  
20 information memorandum?  
21 Q. Yes, I am, Mr. Khamis.  
22 A. And this, again, how can we make sense  
23 of the information that you are portraying here  
24 in the information memorandum, specifically this  
25 information that you want to ask to understand,

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1 CONFIDENTIAL -- Claudio Khamis  
2 what were the interest rates apply-able to  
3 future deposits or liabilities based on  
4 information that was from 2008 and 2009?  
5 MR. BLOOR: So let him ask the  
6 questions  
7 Q. Mr. Khamis, do you believe that, after  
8 the restructuring, that the bank ceased charging  
9 its other depositors interest or paying its  
10 other depositors interest?  
11 A. What page are you looking at?  
12 Q. I'm looking at page 175 --  
13 MR. BLOOR: You have him on  
14 page 201.  
15 MR. VIGNA: That's fine.  
16 Q. I'm looking at page 175, which we  
17 looked at a moment ago, that said the deposits  
18 paid Fund SK on the same terms as the bank's  
19 typical deposit agreements.  
20 A. Listen, Mr. Vigna, let's get facts  
21 straight here.  
22 You just brought me to try to analyze the  
23 information memorandum, following with you that  
24 are the BTA lawyer, from page 175 to follow up  
25 something that is pertinent to page 175 and to



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1 CONFIDENTIAL -- Claudio Khamis  
2 page 201, and you just mentioned that these two  
3 are related and I have to infer information from  
4 something that is in 2010, when information is  
5 even from 2008 and 2009?  
6 I just don't understand your line of  
7 questioning, and I don't know if you're trying  
8 to mislead me.  
9 Q. I'm not trying to mislead you,  
10 Mr. Khamis. Why don't I ask a simple question.  
11 Is it your belief that, after the  
12 restructuring, BTA did not intend to charge its  
13 depositors or to pay its depositors interest?  
14 MR. BLOOR: Objection.  
15 A. If that's my position?  
16 Q. Yes.  
17 A. I think I answered that already.  
18 I think that you have to analyze the  
19 information memorandum as a document produced by  
20 the end of a restructuring, in which the moment  
21 this document was produced, NBK was  
22 government-controlled, SK was  
23 government-controlled, and the bank was  
24 government-controlled, and there was an  
25 operation of rescue and support.

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1 CONFIDENTIAL -- Claudio Khamis  
2 So what limit my answer to this general  
3 concept, and if there was something to be  
4 charged had to be something that was aligned  
5 with the aim portrayed by the government,  
6 whether it was to restructure the bank, make it  
7 a viable concern, and support it.  
8 Even before this, speaking about support,  
9 what sort of support is taking the bank's money  
10 and paying it two percent and charging for the  
11 same money back ten percent?  
12 THE WITNESS: I want to take a  
13 break.  
14 MR. BLOOR: Yeah, can we go off the  
15 record?  
16 MR. VIGNA: Sure.  
17 THE VIDEOGRAPHER: The time is 4:40.  
18 We are going off the record.  
19 (Whereupon, a brief recess was  
20 taken.)  
21 THE VIDEOGRAPHER: The time is  
22 4:50 p.m. We are back on the record.  
23 Q. Mr. Khamis, welcome back from the  
24 break.  
25 Let's look at a different section for the

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1 CONFIDENTIAL -- Claudio Khamis  
2 time being. Why don't we look at the  
3 page romanette II of the IM?  
4 A. This is the beginning or the end?  
5 Q. The beginning.  
6 Now, is this the portion of the information  
7 memorandum called important notice?  
8 A. Yes.  
9 Q. Did you review this portion of the  
10 investment memorandum before you made any of  
11 your after-market investments in BTA at any time  
12 -- strike that. Let's start again.  
13 Did you review this portion of the  
14 information memorandum at any time?  
15 A. I don't have specific recollections of  
16 portions, besides the ones I mentioned in the  
17 last two days.  
18 Q. Would you agree with me that the  
19 fourth full paragraph, on page romanette II,  
20 says nothing -- starts by saying:  
21 Nothing in this information memorandum or  
22 any other document issued with or appended to it  
23 should be relied on for any purpose other than  
24 to make a decision on the restructuring plan.  
25 A. I don't recall if I read this

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1 CONFIDENTIAL -- Claudio Khamis  
2 particular paragraph  
3 In any case, most of these documents have  
4 sort of clauses like this that are very general  
5 practice.  
6 Q. So you're familiar with non-reliance  
7 clauses?  
8 A. I wouldn't say that I'm familiar.  
9 But after, when you see this sort of  
10 documents, there are -- there are clauses that  
11 seem to be of general practice or something that  
12 is.  
13 Q. Did you rely on excerpts of this  
14 information memorandum for any purposes other  
15 than to make a decision on the restructuring  
16 plan?  
17 A. I would say I relied -- I relied on  
18 the information memorandum to make an assessment  
19 of the restructuring and to get an understanding  
20 of -- of the recovery units structure, how I  
21 mentioned how it worked, to have an  
22 understanding about the commitments made about  
23 paying dividends or distributions, especially in  
24 regard to the bank's saying not dividends or  
25 distributions prior to the repayment in full of

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1 CONFIDENTIAL -- Claudio Khamis  
2 notes, but I --  
3 The restructuring process in itself is not  
4 something that -- that is synthetic, that is  
5 limited. The restructuring process is the  
6 process in which you get, in the end, a going  
7 concern, and in all this stuff we have talked  
8 about already, so --  
9 So if I read it, I would -- I would have  
10 understood that the restructuring plan, like --  
11 like the key elements, we were all judging the  
12 restructuring as a very successful  
13 restructuring.  
14 And, actually, here it says a plan.  
15 Q. It says in order to make a decision on  
16 the restructuring plan.  
17 Did you cast any vote as to whether to  
18 approve or disapprove the restructuring plan on  
19 behalf of the funds?  
20 A. I don't know how -- what I know is  
21 that I instructed my broker to -- to participate  
22 in the restructuring.  
23 I don't know how it works on my behalf, if  
24 that requires a vote to participate or not.  
25 This was done through my broker.

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1 CONFIDENTIAL -- Claudio Khamis  
2 Q. Okay. And you don't have any specific  
3 recollection of having records of your vote, do  
4 you?  
5 A. Of having records of my vote?  
6 Q. Yes.  
7 A. I don't have any recollections of  
8 having -- I mean, like a certificate of,  
9 congratulating me for voting.  
10 Q. Do you remember how you conveyed your  
11 instructions to your broker?  
12 A. Are you reading or --  
13 Q. You can answer the question.  
14 A. The instructions to my broker were  
15 usually by phone, and if there was something to  
16 be signed, Patrick would usually bring it to me,  
17 since he was traveling all the time to Santiago.  
18 Q. Do you still have the complaint,  
19 Exhibit 24, in front of you?  
20 A. Are we done with this information  
21 memorandum or --  
22 Q. We'll come back to it.  
23 A. What page --  
24 Q. You know what? This is the wrong  
25 document. We'll come back to this after a

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1 CONFIDENTIAL -- Claudio Khamis  
2 break.  
3 I guess we'll continue with this.  
4 MR. VIGNA: Can I have the document  
5 marked?  
6 (Whereupon, Khamis Exhibit  
7 Number 55, a declaration, was marked for  
8 identification as of this date.)  
9 Q. Mr. Khamis, the court reporter has  
10 just handed you a document that has been marked  
11 Khamis 55, which is a declaration of Claudio  
12 Munir Khamis Johansson in opposition to  
13 defendant's motion for summary motion.  
14 Do you see that document?  
15 A. Yes, I see it.  
16 Q. In paragraph 9 -- let's move forward.  
17 On the final page of this document, is that  
18 your signature?  
19 A. Yes, it is.  
20 Q. Do you recall submitting this to the  
21 court in opposition of the defendant's motion  
22 for summary judgment?  
23 A. Yeah.  
24 When was that? 2016?  
25 Q. Yeah, November of 2016.

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1 CONFIDENTIAL -- Claudio Khamis  
2 In paragraph 9 it says  
3 It's your understanding that UBS financial  
4 services acted in accordance with my  
5 instructions and submitted the irrevocable  
6 electronic instruction forms on behalf of  
7 Atlantica and Baltica in connection with the  
8 2010 restructuring.  
9 Do you see that?  
10 (Time noted: 5:00 p.m.)  
11 A. Yeah.  
12 Q. Do you see that?  
13 A. Yes.  
14 Q. What was the basis of your  
15 understanding?  
16 A. The basis of my understanding came  
17 from the process that from my participation in  
18 the restructuring.  
19 Q. Is it simply that you ended up  
20 receiving different securities back?  
21 A. Excuse me?  
22 Q. When you refer to the process, is it  
23 simply the process by which you received new BTA  
24 securities?  
25 A. There's a process in which you hold a

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1 CONFIDENTIAL -- Claudio Khamis  
2 security, that is the old security, and you  
3 participate in the restructuring. I'm not a  
4 lawyer, and I'm not an operations guy from a  
5 bank. It is -- it is the bank who, on my  
6 behalf, submitted the electronic instruction  
7 form for Atlantica, Baltica and whatever was  
8 needed for -- for the process.  
9 Q. And you were in Chile when you  
10 submitted your instructions or gave your  
11 instructions to UBS?  
12 A. What time is this?  
13 Q. In conjunction with the 2010  
14 restructuring, so it would be --  
15 A. Most likely.  
16 Listen, I travel very little thing, one  
17 time when my daughter was very young, so most  
18 likely I was in Chile  
19 Q. Moving back to the information  
20 memorandum --  
21 A. Are we done with this document?  
22 Q. Yes. You can put that aside.  
23 A. One more time, information memorandum?  
24 Q. Yes.  
25 I think you testified that you reviewed the

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1 CONFIDENTIAL -- Claudio Khamis  
2 risk factors section in the memorandum, is that  
3 correct?  
4 A. It sounds familiar, the risk factor  
5 section. I'm sure --  
6 Q. Now, on page 120, there is a risk  
7 factor entitled:  
8 The bank will be controlled by  
9 Samruk-Kazyna, Kazakhstan's Sovereign Wealth  
10 Fund, whose interests may differ from the  
11 interest of the bank or the claimants.  
12 Do you recall reviewing that risk factor?  
13 A. Where are you reading?  
14 Q. It's near the bottom of page 120.  
15 A. I'm sorry.  
16 So it's the banks would be controlled by  
17 SK? Kazakh Sovereign Wealth Fund, whose  
18 interest may differ from the interests of the  
19 bank or the claimants?  
20 Q. Yes.  
21 Do you recall reviewing that at all?  
22 A. I don't -- I recall reviewing the risk  
23 factors in general.  
24 Q. Okay. Do you understand that, as a  
25 joint stock corporation, the directors of

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1 CONFIDENTIAL -- Claudio Khamis  
2 Fund SK owe fiduciary duties to their  
3 shareholder?  
4 A. Of SK?  
5 Q. Yes.  
6 A. Yes. It's a reasonable assumption.  
7 Q. And wouldn't one of those fiduciary  
8 obligations to be to try to not lose money for  
9 the fund?  
10 A. I -- I agree.  
11 But you're missing here the point, that  
12 right below it says, as the bank majority  
13 shareholder, SK was the entire owner of the  
14 bank, which was the former first bank of the  
15 country.  
16 So why would I see a risk of the owner of a  
17 company destroying the value of a company,  
18 engaging in transactions that have no  
19 explanation but serve, as portrayed by  
20 JP Morgan, to impact the capital?  
21 There was -- in those risk factors, there  
22 is nothing to -- to -- that I would read and  
23 point to a fraud.  
24 Q. Mr. Khamis, is it your belief that  
25 Fund SK intended to destroy the bank prior to

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1 CONFIDENTIAL -- Claudio Khamis  
2 the first restructuring?  
3 A. As I told you before, I'm not of  
4 beliefs. I analyze facts, and --  
5 Q. Do you believe it is a fact that  
6 Fund SK intended to destroy the bank prior to  
7 the first restructuring?  
8 MR. BLOOR: Objection.  
9 A. I told you already, we are alleging  
10 fraud. We're still in the process of fact  
11 finding.  
12 The last movements with the assets of  
13 former BTA were very recently -- I'm not done  
14 with fact finding, and I'm going to be able to  
15 make such assessment only when I have all the  
16 facts.  
17 But we are alleging fraud, and probably  
18 there's a bigger fraud.  
19 Q. Are you suggesting that there was a  
20 fraud that existed from before the 2010  
21 restructuring all the way to today?  
22 A. I'm not suggesting anything that is  
23 beyond the scope of my complaint at this moment.  
24 Q. Now, is the basis of the complaint's  
25 allegations that there were, there was a fraud

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1 CONFIDENTIAL -- Claudio Khamis  
2 by Fund SK simply that Fund SK obtained interest  
3 payments?  
4 MR. BLOOR: Objection.  
5 A. My answer to that assessment is no.  
6 Q. What are the other grounds that you're  
7 currently asserting for believing that Fund SK  
8 was engaged in any sort of a fraud?  
9 A. One more time, you're trying to break  
10 this into pieces, as you have tried to break  
11 into pieces the structure put in place in which  
12 the bank sent funds to SK and National Bank of  
13 Kazakhstan, receiving a mere two percent, while  
14 the same funds would return to the bank having  
15 to pay ten percent.  
16 There are lot of elements that we lay out  
17 in our complaint, and I'm in the process of  
18 learning about others.  
19 Q. Now, this fact that money is being  
20 given to -- of course, this is all shorthand --  
21 but as you say, that money is being given to the  
22 bank at two percent and then monies are being  
23 paid out at ten percent.  
24 Wasn't that fully understood by you by no  
25 later than May of 2011?

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1 CONFIDENTIAL -- Claudio Khamis  
2 A. I repeat what I -- you have been  
3 asking me all along the last two days.  
4 When the first notices were put in,  
5 released, or the news for when the market was  
6 aware that it was such a structure, I think, was  
7 when the investor presentation, that is, I  
8 think, even inaccurate of the number it  
9 portrays, and then JP Morgan later on, and then  
10 Troika, but I think this was contradictory, as I  
11 mentioned so many times.  
12 And there were statements made of the -- by  
13 the administration or the government officials  
14 that it would be addressed. There was not an  
15 understanding what the purpose of it was. It  
16 seemed completely farfetched, since it was going  
17 against the very same principals of the  
18 information memorandum and of a successful  
19 restructuring, and the fact that the  
20 restructuring was deemed to be finished and  
21 successful, therefore, a going concern would be  
22 out there.  
23 Even after those facts are leaking to the  
24 market or put out there, all what was  
25 inconsistent, again, with the successful

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1 CONFIDENTIAL -- Claudio Khamis  
2 restructuring just a few months earlier,  
3 Mr. Kulibayev in -- August 2011 --  
4 I'm getting a little bit tired, so  
5 following the timeline at this stage is kind of  
6 a little bit difficult.  
7 -- mentions his intention to buy BTA bond  
8 and looking into regulatory approval, so -- so  
9 I --  
10 It was incomplete information, very  
11 inconsistent, and not just this one. It was  
12 aligned by other very difficult to understand  
13 information, like the inclusion of the recovery  
14 notes as a liability.  
15 This was all one packaged of disorganized  
16 actions that, looking in hindsight, were  
17 affecting directly the capital of the bank and  
18 its ability to be deemed as an ongoing concern.  
19 I would leave it to this point.  
20 Q. Did you have any understanding that  
21 once the loans paid -- once the loans made by  
22 the National Bank of Kazakhstan were paid off,  
23 that the bonds, the collateral that was put up  
24 by BTA and the bonds that were exchanged with  
25 Fund SK, that all of those funding costs would

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1 CONFIDENTIAL -- Claudio Khamis  
2 go away after the BTA -- or the NBK loans were  
3 paid off?  
4 MR. BLOOR: Objection to the form.  
5 Q. That's a very inelegant question.  
6 Strike that.  
7 Did you have any understanding that aspects  
8 of the funding provided by Fund SK was only to  
9 remain in place until the NBK loans were paid  
10 off?  
11 A. I don't understand.  
12 What are you trying to say?  
13 Q. The funding that was, the aspects of  
14 the funding, there were certain aspects of the  
15 funding that were in place -- let me re-ask the  
16 question  
17 Did you have any understanding that certain  
18 aspects of the funding that were in place was  
19 only going to be in place for a limited period  
20 of time?  
21 A. I don't know if at that time I had  
22 this knowledge.  
23 But it's a reasonable assumption that, if  
24 restructuring of a financial institution, a  
25 bank, is well done, that, as in any other place,

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1 CONFIDENTIAL -- Claudio Khamis  
2 it's for a limited time.  
3 But this has the embedded assumption that  
4 the restructuring is properly made and that the  
5 provisions are fully done and that the recovery  
6 efforts are well done and that the net interest  
7 margin is positive and that you don't take  
8 measures that are very difficult to understand  
9 and justify, like bringing from a segregated  
10 entity a recognition in your balance sheet of a  
11 liability without -- without the corresponding  
12 asset to be paired off. Liabilities don't show  
13 up out of the blue.  
14 Q. We'll look at that in a second  
15 So you're reiterating that you don't agree  
16 how the recovery units were accounted for.  
17 You're reiterating that you have some concerns  
18 about recovery efforts, and you're reiterating  
19 that interest was paid to government entities.  
20 Are there any other aspects of what was  
21 occurring at the bank at the time that you are  
22 complaining about at present in your lawsuit?  
23 A. Listen, after two long days, I don't  
24 recall everything. I don't know if after I  
25 break I would recall more, but eventually not.

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1 CONFIDENTIAL -- Claudio Khamis  
2 Q. Why don't we move forward to this  
3 section of the investment memorandum related to  
4 recovery notes, and think that it's annex 4,  
5 starting on page 564.  
6 Do you recall reviewing this part of the  
7 information memorandum?  
8 A. 564, annex 4?  
9 Q. Annex 4, starting on page 564.  
10 A. Yes.  
11 Q. So you did review this before making  
12 your additional investments in 2010, 2012?  
13 A. I reviewed this. I don't -- I  
14 wouldn't recall exactly when, but I reviewed it.  
15 Q. Okay. On page 569 there's a  
16 section called status of adjusted principal  
17 note.  
18 Do you see that?  
19 A. Yes.  
20 Q. In this section there's a couple of  
21 defined terms.  
22 Do you understand what's being referred to  
23 as the reference amount in there?  
24 A. I assume that the reference amount are  
25 the recovery units.

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1 CONFIDENTIAL -- Claudio Khamis  
2 Q. Yeah.  
3 Was that like about \$5 billion?  
4 A. 5.2 billion.  
5 MR. VIGNA: Before we go on, so I  
6 can make this easier for everyone.  
7 Why don't we go off the record?  
8 THE VIDEOGRAPHER: The time is 5:18.  
9 We are going off the record.  
10 (Whereupon, a brief recess was  
11 taken.)  
12 THE VIDEOGRAPHER: The time is  
13 5:24 p.m. We are back on the record.  
14 Q. Mr. Khamis, just a second ago we were  
15 looking at recovery unit terms, and we were  
16 looking at section 2.B., the status adjusted  
17 principal amount, and we discussed that the  
18 reference amount in there is approximately  
19 \$5.2 billion, and there's also a reference to  
20 the adjusted principal amount.  
21 Do you see that?  
22 A. Where?  
23 Q. In the section it says status of  
24 adjusted principal amount.  
25 I'm just asking if you see that it's

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1 CONFIDENTIAL -- Claudio Khamis  
2 referring to --  
3 A. On page 69 or 70?  
4 Q. 69.  
5 A. 69.  
6 Yes  
7 Q. Okay. And adjusted principal amount,  
8 that is defined on page 577. There's a  
9 definition, adjusted principal amount.  
10 Do you see that?  
11 A. The wording here is -- is horrible.  
12 The aggregate of the relevant specified  
13 percentages of the procedural amount, any amount  
14 is required to be but not as yet paid --  
15 Q. Yeah, it's a little dense.  
16 But you do see that that section, don't  
17 you?  
18 A. Yes, I see it.  
19 Q. Did you evaluate that at all before  
20 you made your additional investments in 2010 and  
21 2012?  
22 A. The adjusted principal amount?  
23 Q. And the status if the adjusted  
24 principal amount, yes.  
25 A. There were no elements at the time the



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1 CONFIDENTIAL -- Claudio Khamis  
2 information memorandum was released to make any  
3 evaluation of what the adjusted principal amount  
4 could look like.  
5 Q. What the dollar amount --  
6 What you're saying is what the dollar  
7 amount of the adjusted principal amount, you may  
8 not have been able to fully calculate -- or you  
9 may not have been able to calculate it at the  
10 time?  
11 A. The adjusted principal amount, if  
12 we're talking about the same, because I remember  
13 some of the concepts. I'm not sure if we're  
14 talking about --  
15 Is this the paragraph?  
16 -- referred us to the amount referenced in  
17 the notes.  
18 So you're talking about the loan portfolio  
19 that was held under the trustee; is that right?  
20 Q. Well, we're going to have to look at  
21 the definition --  
22 So we'd have to look at the definition of  
23 the specified percentages of the residual  
24 amount. The question is simply whether you had  
25 evaluated --

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1 CONFIDENTIAL -- Claudio Khamis  
2 Whether you had reviewed this before making  
3 any of your investment decisions?  
4 A. As I mentioned, one of the parts of  
5 the information memorandum that I had read  
6 carefully was the part of the information  
7 memorandum pertaining to the recovery units.  
8 This paragraph sounds familiar.  
9 The identification of the assets was never  
10 that easy to figure out, besides the reference  
11 amount, and this is why we relied so much on the  
12 information memorandum, because in the end, all  
13 this was held in the trust deed that was not  
14 Kazakh, that was Bank of New York.  
15 What was clear, though, is that -- that the  
16 evaluation of portfolio that is deemed to be  
17 problematic is something that you cannot do that  
18 easy, and my understanding at the time is that  
19 this was the logic behind the trust deed and the  
20 times that the recovery units structure was in  
21 place. I think it was until 2020 or something  
22 around this year, so as to give it time for  
23 recoveries and for assets to settle and the dust  
24 to come down from the crisis and have an  
25 understanding of the real value of those assets

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1 CONFIDENTIAL -- Claudio Khamis  
2 and give it good chance of collection efforts.  
3 Q. Did you think that you were going to  
4 be getting any reports from the Bank of New York  
5 directly to you about the value of the trust  
6 assets?  
7 A. The -- there were some -- some  
8 reporting that had to be in place by an  
9 auditor --  
10 I don't remember, one of the big four, but  
11 it was one of the big four. I don't remember if  
12 it was KPMG or Deloitte or any of those big  
13 names.  
14 -- that was a -- that was in charge of  
15 preparing those reports.  
16 How we would have been presented the  
17 information about what was in? I'm not sure I  
18 was that clear at the time, but again, our --  
19 My reliance was on Bank of New York, not on  
20 Kazakhs.  
21 Q. And whatever it is that you thought  
22 that Bank of New York did, was doing, do you  
23 know if they actually did it?  
24 A. That's a good question. We will know  
25 in depositions.

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1 CONFIDENTIAL -- Claudio Khamis  
2 Q. Did you understand, from reading this  
3 restructure, recovery unit section of the IM,  
4 that the adjusted principal amount constituted  
5 an unconditional, un-subordinated, and secured  
6 obligation of the bank?  
7 A. Excuse me?  
8 Q. Did you understand that the adjusted  
9 principal amount -- excuse me, yes -- the  
10 adjusted principal amount constituted an  
11 unconditional, un-subordinated and secured  
12 obligation of the bank?  
13 A. Unsecured or secured? Where are you  
14 reading? It would help me --  
15 Q. Oh, you're absolutely right. Thank  
16 you so much for correcting me. I'm reading from  
17 page 569, the status of adjusted principal  
18 amount.  
19 And the adjusted principal amount  
20 constitutes an unconditional, un-subordinated  
21 and secured obligation of the bank.  
22 You're correct.  
23 A. Correct.  
24 Q. Did you have any --  
25 A. Correct.

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1 CONFIDENTIAL -- Claudio Khamis  
2 But you're missing something here.  
3 Q. Okay. What am I missing?  
4 A. You're reading just one part, and  
5 probably what you're referring to is at the very  
6 end of the treatment of the recovery units.  
7 The recovery units' treatment was -- was --  
8 how would I say? -- as the words segregated and  
9 put for collection.  
10 I'm not sure if what you're reading here  
11 is -- at the end of -- what was the year, 2020?  
12 Q. I believe you're right.  
13 A. At 2020 there would be an evaluation  
14 and some special treatment for it, and my  
15 understanding -- probably wrong, because I'm  
16 tired -- that until that moment, it would be  
17 treated as an off-balance-sheet item and  
18 completely segregated under this trust deed  
19 form, so probably there was an end to the trust  
20 deed at some point.  
21 Q. Did you have any understanding of what  
22 would happen to the value of the recovery units  
23 upon an event of default by the bank, such as  
24 not paying interest on some of the bonds that  
25 were due?

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1 CONFIDENTIAL -- Claudio Khamis  
2 A. From what I read from the information  
3 memorandum, as I mentioned repeatedly, our  
4 understanding was that this was completely  
5 segregated. This was the way I understood it  
6 from what I read at the moment.  
7 If the nature of it was not to be  
8 segregated, it should have been made more clear  
9 in the reading. I don't know if in some part of  
10 this, going about and flipping through different  
11 pages of over 600 and whatever document, that  
12 there was something that I may have missed  
13 But the very nature of losing ownership of  
14 the recovery units because there were something  
15 going on at the bank, contradicted the whole  
16 purpose portraying the segregation.  
17 Q. When you say losing --  
18 What do you mean by losing ownership of  
19 recovery units?  
20 A. When I was owner of the recovery units  
21 until -- until the 2012 restructuring. When I  
22 lost, I was forced to give away my recovery  
23 units in exchange for a package of cash and  
24 something else that was for \$0.14, the valuation  
25 at the time. Maybe I'm wrong, but that's what I

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1 CONFIDENTIAL -- Claudio Khamis  
2 recall at this moment.  
3 So when that happened, I felt that I didn't  
4 have a choice but to give it away when it was  
5 segregated.  
6 Q. But the reason you had to give away  
7 your recovery units was because of that was in  
8 the restructuring plan that was approved by a  
9 sufficient number the bank's creditors; isn't  
10 that correct?  
11 A. I couldn't tell you if that's correct,  
12 because I never got to see it, as I just  
13 mentioned, in the information memorandum.  
14 Can you show it to me now?  
15 Q. Well, I think what you're referring to  
16 is the exchange of the recovery units for equity  
17 or actually, it was cash, excuse me -- the  
18 exchange of the recovery units in the second  
19 restructuring.  
20 I don't think you're referring to something  
21 that's in the information memorandum, are you?  
22 A. What I understand from your question  
23 is that I should have known from the information  
24 memorandum that these units were not really  
25 segregated under a trust deed, but could be

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1 CONFIDENTIAL -- Claudio Khamis  
2 accelerated and taken back into the control of  
3 SK ownership.  
4 Q. I think you might have meant BTA  
5 ownership --  
6 A. BTA ownership that is owned by SK.  
7 Q. Why don't we look at page 580 of this  
8 IM. It discusses what happens in the event of  
9 default.  
10 Do you see that?  
11 A. Yes.  
12 Q. Doesn't it say that in an event of  
13 default, the trustee --  
14 Do you know what the trustee is being  
15 referred to there?  
16 A. No.  
17 Can you verify that?  
18 Q. I know what it means, but we'll have  
19 to find the definition.  
20 It means the trustee of the --  
21 A. Was it Bank of New York? Isn't it the  
22 Bank of New York?  
23 MR. BLOOR: Let him answer.  
24 Q. Yes. The trustee was the Bank of New  
25 York Mellon.

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1 CONFIDENTIAL -- Claudio Khamis  
2 Now, on page 580 it explains that the  
3 trustee, at its discretion may --  
4 And it talks about the circumstances in  
5 which it may --  
6 -- give notice to the bank that the units  
7 are and they shall become due and repayable in  
8 an aggregate amount equivalent to the higher of,  
9 one, the reference amount, and two, the  
10 aggregate of, A, amounts standing to the credit  
11 of the collection account, and B, amounts by  
12 reference to recoveries realized in cash and  
13 required to be, but not yet paid, to the  
14 collection account.  
15 Do you see that?  
16 A. Excuse me. Listen, I have to read it.  
17 Q. Go ahead.  
18 A. Events of default, you're talking  
19 about?  
20 Q. Yes.  
21 A. Right.  
22 But it starts it with the trustee, at its  
23 discretion --  
24 Q. Right.  
25 A. Why would I presume that the trustee,

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1 CONFIDENTIAL -- Claudio Khamis  
2 at its discretion, would do something to damage  
3 my ownership of the recovery units?  
4 Q. Well, you will have the opportunity to  
5 discuss that with Fund SK --  
6 A. Bank of New York.  
7 Q. With Bank of New York.  
8 It says in here, it sets out the  
9 circumstances in which the trustee can  
10 accelerate the notes or the units.  
11 Would you agree with me about that?  
12 A. It says the trustee, at its direction,  
13 may. The trustee, at its direction --  
14 You would expect them to be the trusted  
15 entity to hold my assets in the US or in the UK  
16 by the Bank of New York and nobody else.  
17 And the trustee didn't fulfill or not  
18 fulfill its obligations, we're going to find  
19 out.  
20 Q. But you understand that the trustee  
21 could accelerate the notes and make them due and  
22 payable --  
23 A. When you read terminology like this,  
24 it's very hard to imagine what -- what this is  
25 phrased for.

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1 CONFIDENTIAL -- Claudio Khamis  
2 When you have a clean defined pool of  
3 assets, that it was taken out of the control of  
4 Kazakhs to put into a western institution, the  
5 Bank of New York as a trustee, I was -- when I  
6 read this, my reliance was not just on the  
7 information memorandum, but also on -- on the --  
8 what you would understand that this action was  
9 trying to achieve, that was segregate the assets  
10 and put them onto very reliable and trustworthy  
11 hands that would look after my interests as a  
12 recovery unit holder.  
13 (Whereupon, Khamis Exhibit  
14 Number 56, email, was marked for  
15 identification as of this date.)  
16 Q. Mr. Khamis, the court reporter has  
17 just handed you a document that's been marked  
18 Khamis Exhibit 56, which bears the initial Bates  
19 number P00007826.  
20 Do you see that?  
21 A. Was it the same stuff of yesterday?  
22 Or is it a different one?  
23 Q. You know what? At this point, I don't  
24 recall. If it's a duplicative exhibit, I  
25 apologize --

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1 CONFIDENTIAL -- Claudio Khamis  
2 A. No, no. Listen, I just don't know.  
3 Q. Can you identify this document for the  
4 for the record, Mr. Khamis?  
5 A. It's an email from Izzo to me.  
6 Q. And what's the date of the top email?  
7 A. It's December 30, 2011.  
8 Q. And is that shortly --  
9 It's almost immediately at the same time  
10 that BTA announced an intent to restructure, but  
11 well before any of the restructuring terms were  
12 announced; isn't that correct?  
13 A. I think this, that this was post --  
14 the announcement -- I don't recall what the  
15 announcement was made, but the announcement was  
16 made on the web page.  
17 Q. Well, the announcement was made in  
18 multiple places.  
19 But in your recollection, this is shortly  
20 after the announcement of the intent to  
21 restructure, but before the terms were --  
22 A. Before the terms of?  
23 Q. Before the terms were known by  
24 anybody?  
25 A. I think so, yes.

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1 CONFIDENTIAL -- Claudio Khamis  
2 The terms were known deep in 2012, no?  
3 Q. Exactly, yes.  
4 And this email from Mr. Izzo to you, is he  
5 forwarding anything to you?  
6 A. Yeah. I wrote this Rotyslav Orach at  
7 Troika.  
8 Q. And he is forwarding an email from  
9 Mr. Orach; is that correct?  
10 A. Yeah, our research says --  
11 MR. BLOOR: And just so we're clear,  
12 this is the same email, with different  
13 Bates numbers, as Khamis 35 marked  
14 yesterday.  
15 MR. VIGNA: Okay. Thank you, for  
16 the record.  
17 Q. Mr. Orach writes in this email that:  
18 When and if the recovery note holders  
19 accelerate the redemption, the bank will have to  
20 recognize the total reference value of the  
21 recovery notes as a liability.  
22 Do you see that?  
23 A. Can you point it out to me?  
24 Q. Yeah, it's at the very top.  
25 A. Where it says Debtwire wrote?

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1 CONFIDENTIAL -- Claudio Khamis  
2 Q. Yes.  
3 A. Yeah. It says:  
4 When and if the recovery note holders  
5 accelerate the redemption.  
6 Q. So no acceleration had occurred yet at  
7 that point; is that correct?  
8 A. It seems that no acceleration had  
9 occurred at that time.  
10 And it seemed still, at the time, the  
11 person controlling the future of the recovery  
12 units was the trustee.  
13 Is that correct?  
14 Q. Well, we'll -- I'm sure your attorney  
15 will get into that.  
16 But you were certainly warned, as of  
17 December 30, 2011, that the recovery notes could  
18 be accelerated and become a liability of the  
19 bank; isn't that correct?  
20 MR. BLOOR: Objection.  
21 You can answer.  
22 A. It's -- can you repeat? You're making  
23 a statement, no?  
24 Q. I'm asking if you agree with this  
25 statement, which was you were advised, as of

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1 CONFIDENTIAL -- Claudio Khamis  
2 December 30, 2011, that the recovery notes could  
3 be accelerated and become a liability of the  
4 bank?  
5 A. That I was advised?  
6 Q. Yes. That you were advised of that.  
7 A. By whom?  
8 Q. By Mr. Orach.  
9 A. I'm just reading Mr. Orach's opinion  
10 about what his understanding is, and he phrases  
11 when and if, and, as we just saw a few minutes  
12 ago, Mr. Orach has nothing to do with Bank of  
13 New York or its trustee to know what its  
14 intentions are.  
15 Q. That's true.  
16 The point is, would you agree with me that,  
17 as of December 30, 2011, you were aware that  
18 there was a possibility that the entire  
19 reference amount of the notes could be  
20 accelerated and become a liability of the bank?  
21 A. I wouldn't agree with that comment.  
22 Q. Okay. Why would you disagree?  
23 A. Because of what I just told you. It's  
24 very hard to understand, even though the trust  
25 deed, that the trustee had the faculties or was

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1 CONFIDENTIAL -- Claudio Khamis  
2 allowed, that he would do something to take  
3 ownership away from the recovery unit holders of  
4 a pool of assets that was, at least the  
5 reference amount, I would guess, no? Fact,  
6 2 billion, something that we also, until today,  
7 we don't have clarity about the reference amount  
8 and the portfolio of assets that were held under  
9 the trustee.  
10 This is Mr. Orach's opinion.  
11 MR. VIGNA: Can we have this marked  
12 as the next exhibit  
13 (Whereupon, Khamis Exhibit  
14 Number 57, email, was marked for  
15 identification as of this date.)  
16 A. I remember what I was -- what I was  
17 saying.  
18 Even at the time this report was issued,  
19 there was no reason regarding, at least, the  
20 recovery units, not to trust what the trust deed  
21 was portraying -- sorry, what the information  
22 memorandum was portraying regarding the recovery  
23 units' structure and the trust deed.  
24 Q. But the information memorandum did  
25 point out that the recovery units could be



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1 CONFIDENTIAL -- Claudio Khamis  
2 accelerated and become an immediate  
3 \$5-point-something billion obligation of the  
4 bank; isn't that correct?  
5 A. No. That's not correct. We just went  
6 over it together with you together, the  
7 information memorandum. That's not correct.  
8 That's not a correct statement.  
9 Q. Okay. It could be accelerated by the  
10 trustee --  
11 A. What it says there, we just talked  
12 about it, is that the trustee had the power to  
13 decide to do something that was against,  
14 eventually, the interest of the bondholders.  
15 He had a pool of assets that he could have  
16 waited until 2020 for recoveries, and for us, we  
17 were never informed on what basis he took his  
18 decision. I never received a communication as a  
19 recovery unit holder from the trustee or the  
20 trust deed asking me something or informing me  
21 something, not to mention that I never received  
22 a penny from the trustee and its oversight of  
23 the recovery efforts.  
24 Q. Turning to the document in front of  
25 you, which bears initial Bates number P00002014,

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1 CONFIDENTIAL -- Claudio Khamis  
2 can you identify this for the record?  
3 A. It's an email from Igal Yacher to  
4 Patrick, to me, about BTA Bank to meet in London  
5 on January 11th, I guess, 2012.  
6 Q. And why don't you take a couple  
7 moments to skim this email.  
8 (Whereupon, the Witness complied  
9 with the request.)  
10 Q. The parts I'm going to ask you about  
11 relate to the recovery note acceleration.  
12 A. Okay. What part specifically?  
13 Q. Starting with holders of BTA Bank's  
14 separate recovery notes have been studying  
15 acceleration.  
16 A. It doesn't mention which holders.  
17 Q. In this email, does Mr. Yacher  
18 informed you that certain holders of BTA's  
19 recovery notes have been studying acceleration?  
20 A. That's what it says.  
21 Q. And does he provide some context to  
22 why some holders might think that's a good idea?  
23 A. Some context? What do you mean, some  
24 context?  
25 Q. It says one investor camp in favor the

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1 CONFIDENTIAL -- Claudio Khamis  
2 acceleration.  
3 Do you see that?  
4 A. One investor camp? A group means  
5 camp?  
6 Q. Yes.  
7 A. Yes.  
8 Q. So it discusses that there are some  
9 recovery unit holders that were in favor of  
10 acceleration.  
11 Would you agree with me?  
12 A. That's what it says.  
13 Q. And I think it's indisputable that, at  
14 least, in January of 2012, you were  
15 corresponding with Yacher about the possibility  
16 that these recovery notes could be accelerated.  
17 Would you agree with me?  
18 A. I wouldn't agree with you.  
19 This was most likely unsolicited email that  
20 Igal was sending me to inform me about -- about  
21 what he thought was -- was relevant at the time.  
22 But when you read this, you don't -- you  
23 just read that holders, without identifying  
24 which holders, how big they are, who are they?  
25 Are they Mr. Kulibayev and his friends that

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1 CONFIDENTIAL -- Claudio Khamis  
2 bought bonds? We didn't know if they were  
3 Kazakh holders related to the government. We  
4 just didn't know who the other holders were.  
5 But what we knew, and what was the fact,  
6 according to the information memorandum, is  
7 those assets at the trust deed, at the trustee.  
8 Q. And that the trustee had the right, in  
9 certain circumstances, to accelerate the  
10 obligation to make it an immediately liability  
11 of the bank; is that correct?  
12 A. We went over this.  
13 One -- one thing that was relevant about  
14 this email is that in all the positions that are  
15 stated here about holders, nobody -- no one  
16 gives a good reason why not leave the recovery  
17 unit assets under the trustee for collection and  
18 see what the real value of those assets are.  
19 MR. BLOOR: Why don't you put  
20 that --  
21 MR. VIGNA: Why don't we mark  
22 another exhibit.  
23 (Whereupon, Khamis Exhibit  
24 Number 58, email, was marked for  
25 identification as of this date.)



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1 CONFIDENTIAL -- Claudio Khamis  
2 Q. Mr. Khamis, the court reporter has  
3 just handed you what's been marked Khamis  
4 Exhibit 58, which bears initial Bates number  
5 P00003011.  
6 Do you see that document?  
7 A. Yes, I see it.  
8 Q. What is it?  
9 A. It's an email.  
10 Q. From whom to whom?  
11 A. From Matthew Poe to me, to Izzo, to a  
12 person called Mark Salgado.  
13 THE REPORTER: Mark Salgado?  
14 THE WITNESS: Yeah.  
15 Q. What's the date of this email?  
16 A. Now I'm confused.  
17 I don't know if it's a month five or month  
18 four and day five.  
19 Q. On the second page there's a reference  
20 to May 3rd spelled out as a word would lead me  
21 to believe it's May 4th.  
22 Would you agree with me?  
23 A. Probably. So it's May.  
24 Q. And what's the subject of this email?  
25 A. Kazakh BTA banking recovery unit

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1 CONFIDENTIAL -- Claudio Khamis  
2 holders seek early payment.  
3 Q. And does this email forward you an  
4 announcement that the recovery unit holders had  
5 sought acceleration or had accelerated?  
6 A. I don't see that they have  
7 accelerated.  
8 Have they accelerated yet?  
9 MR. BLOOR: He's asking you about  
10 the forwarded email.  
11 Q. The forwarded email talks about a  
12 notice of acceleration.  
13 A. It's -- I don't know -- I don't see a  
14 notice of acceleration.  
15 Q. Why don't you look at the second  
16 page --  
17 Well, would you agree with me that Mr. Poe  
18 is forwarding you a message from -- he's  
19 forwarding what looks like an article he had  
20 received from Bloomberg?  
21 Would you agree with me that that's what  
22 this email is doing?  
23 A. Yeah.  
24 Q. And the article from Bloomberg is a  
25 discussion of BTA receiving a notice of

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1 CONFIDENTIAL -- Claudio Khamis  
2 acceleration from BNY Mellon Corporate Trust  
3 Services, Limited.  
4 Do you see that?  
5 A. Where are you looking? The first  
6 paragraphs or after restructuring, where it says  
7 restructuring?  
8 Q. At the top.  
9 A. They said that holders of recovery  
10 holders asked for payment in full.  
11 It doesn't say explicitly acceleration.  
12 Q. Does it say in the second paragraph  
13 that the lender received a notice the  
14 acceleration?  
15 A. Yeah, in the second paragraph, you're  
16 right. It says.  
17 Q. And the third paragraph there's a  
18 discussion about the creditors committee not  
19 having been surprised by the notice.  
20 Do you see that?  
21 A. Yes, I see it.  
22 Q. Did you have any interactions with  
23 BTA's creditors committee?  
24 A. No.  
25 Q. Do you know who is on the creditors

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1 CONFIDENTIAL -- Claudio Khamis  
2 committee for the second restructuring"  
3 A. No.  
4 Q. Would you agree with me that,  
5 according to this Bloomberg article, the  
6 creditors' committee did not believe that the  
7 notice of acceleration was unexpected?  
8 MR. BLOOR: Objection.  
9 You can answer.  
10 A. I don't know what information the  
11 creditors' committee might have had.  
12 MR. BLOOR: You can put that down.  
13 Q. You can put it down. Why don't we go  
14 back to the information memorandum for a second.  
15 Can you turn to page 311 of this document,  
16 Mr. Khamis?  
17 A. 311?  
18 Q. Yes.  
19 Why don't you first turn to page 310.  
20 What's the title of this section that  
21 begins on page 310?  
22 A. Insurance and restrictions.  
23 Listen, in one of the questions I will have  
24 to go the bathroom, so you decide when.  
25 Q. Why don't we go now.

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1 CONFIDENTIAL -- Claudio Khamis  
2 THE VIDEOGRAPHER: The time is 6:04.  
3 We're going off the record.  
4 (Whereupon, a brief recess was  
5 taken.)  
6 THE VIDEOGRAPHER: The time is  
7 6:15 p.m. This begins media number 4.  
8 Q. Mr. Khamis, welcome back.  
9 Aside from the exchange of assets in the  
10 first restructuring of BTA Bank, you didn't  
11 acquire any securities directly from BTA Bank,  
12 did you?  
13 A. Can you explain your question?  
14 Q. Aside from the exchange of securities  
15 in the first restructuring, all of your  
16 purchases of BTA bonds were in the open market;  
17 correct?  
18 A. That's -- I would say that's correct.  
19 Q. Do you have any idea of who the  
20 counter-parties to those trades were?  
21 A. I would have to ask my -- my UBS.  
22 Q. Sitting here today, you don't know who  
23 the counter-parties were, then?  
24 A. No.  
25 Q. Did you have any direct communications

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1 CONFIDENTIAL -- Claudio Khamis  
2 with BTA of any sort?  
3 A. I don't think so. Direct  
4 communications is a very -- term.  
5 You mean through the website? We were  
6 communicating, but I mean, talking to officials  
7 like with you and me? No.  
8 Q. And no emails?  
9 A. Again, it depends if it was, I mean,  
10 the information memorandum, depends what, how do  
11 you define the term direct.  
12 But if you're meaning direct person contact  
13 through emails with persons identified, no. I  
14 wouldn't say so.  
15 Q. Did the bank ever mail anything to  
16 your home?  
17 A. I couldn't say. I just don't know,  
18 because I received so much mail from my  
19 investments, especially during this processes,  
20 voting processes and restructurings, exchanges,  
21 they are usually communicated, but I don't  
22 recall what I was receiving at the time.  
23 I usually, when I receive something, I look  
24 at, and if I don't need it, I throw it away  
25 right away. It's too much paper.

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1 CONFIDENTIAL -- Claudio Khamis  
2 Q. Aside from Mr. Ablyazov and the  
3 representative of BTA involved in this  
4 litigation, have you ever met anyone who worked  
5 at BTA?  
6 A. Listen, your question is so open, but  
7 as you will mention, besides Mr. Ablyazov, I  
8 don't -- I don't recall. I couldn't tell you  
9 off the top of my head now.  
10 Probably not.  
11 Q. I think you've testified that when  
12 you're making your investment decisions you look  
13 at whatever information you have and you give  
14 credit to some, you don't give credit to others,  
15 and you make your decision. Is there --  
16 Can you explain what information you gave  
17 credit to when you made, in connection with any  
18 of your BTA purchases?  
19 MR. BLOOR: Objection.  
20 You can answer.  
21 A. It's -- it would be very different --  
22 for the different -- but it would be information  
23 that I had available at the time, plus,  
24 including, pretty much current information and  
25 past information. So the process is about

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1 CONFIDENTIAL -- Claudio Khamis  
2 trying to check and look for validity and look  
3 for consistency and always -- it's always trying  
4 to look at the intrinsic value of the security,  
5 vis-a-vis the market price.  
6 Assessing an intrinsic value, specifically,  
7 is very hard, but sometimes you get a very good  
8 sense when something is assessed by me as having  
9 a big deviation between the market price and the  
10 intrinsic value.  
11 Q. Did you think you had any sort of an  
12 insider's perspective on the value of the bank's  
13 assets or the bank's future direction?  
14 A. Insider's?  
15 Q. Yes.  
16 A. At the time?  
17 Q. Yes.  
18 A. Very difficult, because I didn't know  
19 any insiders at the time.  
20 Q. Did you think that you had a better  
21 sense of the bank's intrinsic value than the  
22 bank's auditors?  
23 MR. BLOOR: Objection.  
24 You can answer.  
25 A. Listen, talking about auditors, we

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1 CONFIDENTIAL -- Claudio Khamis  
2 would have to talk about Enron, but we will also  
3 have to talk about BTA.  
4 Somebody must have prepared the numbers  
5 that were portrayed to us as positive capital at  
6 the end of the first restructuring. I would  
7 guess that it was people prepared for it. I  
8 wouldn't assume that a republic like the  
9 Republic of Kazakhstan or any of its wealth fund  
10 or any of the intervening parties that are  
11 deemed to be eventually knowledgeable, or  
12 expected at the time to be knowledgeable, would  
13 release statements that wouldn't hold for  
14 132 days.  
15 So -- so the role of the auditors, when  
16 they show up, as Mr. Walsh pointed with some  
17 very glamorous name, I don't recall what it  
18 was -- in their recording liabilities of -- of a  
19 segregated structure, when, as you pointed out,  
20 there were discussions about acceleration  
21 where -- how many years later? One year,  
22 one year and a half later, or probably one year  
23 and a half later, and how could they have done  
24 it? And there was no explanation for the role  
25 of the auditors doing that.

1 CONFIDENTIAL -- Claudio Khamis  
2 the analysis, because of their small size of it.  
3 Q. Are you familiar with the interest  
4 being offered to commercial depositors at any of  
5 the Kazakh banks in 2009 and 2010 and 2011?  
6 MR. BLOOR: Objection.  
7 You can answer.  
8 A. No.  
9 Q. Turning to the section on BTA Bank in  
10 this document, which starts on page P00003153,  
11 one of the three --  
12 A. I would like to add something to my  
13 previous answer.  
14 The answer is no, and there was a reason  
15 for this no. The reason was because BTA Bank  
16 was the biggest bank, and it was still the bank  
17 that -- that was just restructured a very few  
18 months before, and restructurings are a dynamic  
19 process, and there was involvement, still, in  
20 ownership of the -- of the Sovereign Wealth  
21 Fund, so --  
22 So looking at deposited rates in Kazakhstan  
23 for other banks at this time, outside the scope  
24 of governmental support, probably wouldn't have  
25 caught my attention.

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1 CONFIDENTIAL -- Claudio Khamis  
2 And I repeat one more time, it was very  
3 difficult to understand and give credit to such  
4 an amount to conflicting information.  
5 I hope this responds to your question.  
6 Q. Mr. Khamis, could you look again at  
7 what was previously marked as Kibliskey 24, this  
8 document?  
9 A. I think we discussed this yesterday.  
10 Q. There are a number of banks that are  
11 discussed in here; isn't that true, Mr. Khamis?  
12 A. Yeah.  
13 Q. One of the banks is Alliance Bank;  
14 right?  
15 A. Yes.  
16 Q. Did you have any understanding of what  
17 Alliance Bank was paying as interest on its  
18 deposits in 2009 or 2010 or 2011?  
19 MR. BLOOR: Objection.  
20 You can answer.  
21 A. I -- I don't recall that those dates  
22 and what I knew about Alliance Bank.  
23 I think I mentioned yesterday that Alliance  
24 Bank was a relatively small investment in my  
25 portfolio, and I wasn't very much involved into

1 CONFIDENTIAL -- Claudio Khamis  
2 Q. In looking at the HSBC analysis, the  
3 second bullet point says that:  
4 The bank received funding from the owner,  
5 but it comes at a relatively high cost.  
6 You understand that the owner being  
7 referred to is Fund SK?  
8 A. Where are you looking at?  
9 Q. The second bullet point, at key events  
10 and risks to monitor.  
11 A. Where it says climbing back?  
12 Q. Yes. If you were to go down to, then,  
13 the key -- right, I think it says key events and  
14 risks to monitor, and there are three bullet  
15 points.  
16 Do you see the three bullet points?  
17 A. Right. Key events and risk to  
18 monitor. Yes, now I'm seeing it.  
19 Q. Did I read that second bullet point  
20 properly, that the bank receives funding from  
21 its owner, but it comes at a relatively high  
22 cost?  
23 A. Yes. I -- I see it.  
24 Q. Did you --  
25 And you understood that the owner was

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1 CONFIDENTIAL -- Claudio Khamis  
2 Fund SK?  
3 A. Yes.  
4 Q. Did you have any reason to dispute the  
5 conclusion by IISBC in March 2011, that the  
6 Fund SK's funding to BTA Bank came at a  
7 relatively high cost?  
8 A. You're trying to -- to -- what it says  
9 here is the bank receives funding from the  
10 owner, but it comes as a relatively high cost.  
11 It's a bank that's receiving state support.  
12 It's relative to what? It's relative to the  
13 cost that European Central Bank was helping all  
14 over Europe? Or the cost of the other countries  
15 were supporting their financial system?  
16 It said nothing about the negative interest  
17 margin or nothing that would make you suspicious  
18 that the cost would be close to ten percent  
19 Relatively to what is the question.  
20 So this sort of statements are exactly the  
21 reason I was mentioning yesterday, that some  
22 bank analysts write stuff and don't explain well  
23 whether -- whether their sources, whether is the  
24 basis for what they write.  
25 And a month later the negative carry swap

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1 CONFIDENTIAL -- Claudio Khamis  
2 is first leaked or presented, at least, in a way  
3 that I could understand it, that it was in  
4 place.  
5 Do you have a question?  
6 Q. We'll come back to this, so just put  
7 it away.  
8 (Whereupon, Khamis Exhibit  
9 Number 59, a Fitch ratings report, was  
10 marked for identification as of this  
11 date.)  
12 Q. Mr. Khamis, the court reporter has  
13 just handed you a document that's marked Khamis  
14 Exhibit 59, which is dated January 18, 2011.  
15 Do you see that?  
16 A. Yes.  
17 Q. Have you ever seen this document  
18 before?  
19 A. Was it produced by me?  
20 Q. No. It was not.  
21 A. Then I don't think so.  
22 Q. So this is not one of the documents  
23 that you looked at separately online?  
24 A. Online? About the Fitch web page?  
25 Q. Yes.

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1 CONFIDENTIAL -- Claudio Khamis  
2 A. No. I don't -- I don't understand how  
3 rating agencies rate. I don't understand how  
4 they rate sub-prime. I just don't look at them.  
5 I remember I looked at them the last time,  
6 and this is very interesting. I was about to  
7 buy, at the time, Enron bonds, because they were  
8 yielding seven percent when the rest of the  
9 market with similar rating was yielding six,  
10 just one point plus. A few months later, Enron  
11 blew up.  
12 Q. Can you turn to your page 4 of this  
13 document, Mr. Khamis?  
14 A. Page 4 of this document?  
15 Q. Of the Fitch report.  
16 A. Yes.  
17 Q. What is the first heading that you see  
18 on that page?  
19 A. Is capital to SK came in two stages.  
20 Q. Okay. The first heading that I see  
21 says SK role, crucial funding and capital  
22 support, but its terms kill profits.  
23 Do you see that on page 4?  
24 MR. BLOOR: It's the bold.  
25 A. It's -- sorry. I was on the wrong

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1 CONFIDENTIAL -- Claudio Khamis  
2 page.  
3 It's page 2 or page 3?  
4 Q. Page 4.  
5 A. I was on page 4.  
6 So where were you reading?  
7 MR. BLOOR: Here.  
8 A. SK role, SK. Okay  
9 Q. And there's a discussion in here that  
10 SK's deposits bear relatively high interest  
11 rates of up to ten percent, and that the fees  
12 that the bank pays Fund SK puts considerable  
13 negative pressure on BTA's core revenue.  
14 Do you see that discussion?  
15 MR. BLOOR: Do you see where.  
16 A. Yeah.  
17 SK deposits bear relatively high interest  
18 rates of up to ten percent, substantially higher  
19 than the average cost of deposit funding at BTA  
20 peers.  
21 Interesting. I didn't see it, but it makes  
22 complete sense about the fraud.  
23 Q. Okay. Of the other banks that  
24 experienced financial difficulties in Kazakhstan  
25 in, around 2010, do you know what interest rates

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1 CONFIDENTIAL -- Claudio Khamis  
2 those sorts of banks paid on commercial  
3 deposits?  
4 A. Listen, if you can give me a minute to  
5 finish reading this.  
6 This is very important. Why don't you keep  
7 it? It's interesting. Thank you.  
8 MR. BLOOR: I think, I mean, the  
9 point is we hadn't seen this, then, so I  
10 don't want you to read it and interpret  
11 it now sitting here today, so let him ask  
12 his question.  
13 A. Can you repeat the question?  
14 Q. I guess the question I was asking was  
15 basically a follow-up than what I had asked  
16 earlier, which was:  
17 You don't actually know what interest rates  
18 banks in Kazakhstan that had experienced  
19 financial difficulties offered on its commercial  
20 deposits, do you?  
21 A. Listen, your question is -- is a --  
22 I'm going to say the following to your question:  
23 There is never a rate that applies to -- to  
24 all banks that you can put under the category of  
25 under financial distress or being restructured

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1 CONFIDENTIAL -- Claudio Khamis  
2 or -- I just don't know --  
3 I mean, if you want to rephrase your  
4 question?  
5 MR. BLOOR: I think you answered  
6 that question already, so let him ask  
7 another one.  
8 Q. Is this document evidence that there  
9 was information in the market prior to May 2011  
10 that BTA's cost of funding was high?  
11 MR. BLOOR: Objection.  
12 A. I don't know if this was available to  
13 the market. I don't know if the Fitch web  
14 page was a free or they were issuing those  
15 reports for free or to subscribers. I just  
16 don't know.  
17 Q. You can put that aside.  
18 Turning back to the IISBC report on  
19 page 3153, under the HSBC FI research view,  
20 there are three paragraphs.  
21 Do you see them?  
22 A. Yeah. I see the first paragraph and  
23 stuff related to claims against Ablyazov.  
24 What part do you want to refer to?  
25 Q. I'm looking at the second paragraph,

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1 CONFIDENTIAL -- Claudio Khamis  
2 the claims against Ablyazov. It says that the  
3 bank had filed claims against Ablyazov,  
4 including a new \$1.2 billion claim.  
5 Do you see that?  
6 A. Yes.  
7 Q. Do you have any reason to doubt the  
8 veracity of that statement?  
9 A. Of course not.  
10 Q. And do you believe that you had any  
11 insight as to how quickly -- let me rephrase  
12 that.  
13 Did the bank make any representations, of  
14 what you're aware, of about how successfully or  
15 how quickly it would recover assets?  
16 A. The information that was flowing from  
17 the bank was about this kind of information,  
18 that they were taking action against Ablyazov,  
19 as I recall.  
20 I don't recall other information relevant  
21 regarding this. I don't say it didn't exist,  
22 but I just don't recall it.  
23 Q. And I think your testimony earlier was  
24 that you did not follow the litigation against  
25 Ablyazov?

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1 CONFIDENTIAL -- Claudio Khamis  
2 A. I don't -- I'm not involved into  
3 following the litigation itself, but the bank is  
4 saying that they are filing a claim against a  
5 creditor to recover assets is a very general and  
6 distant observation of what the bank is doing to  
7 protect its portfolio and recover assets.  
8 Q. Can you look for a document that was  
9 previously marked as Kiblisky 36?  
10 A. We saw this yesterday, didn't we?  
11 Q. Yes.  
12 And this is the correspondence between you  
13 and Patrick Kiblisky in April saying print the  
14 chat from AFJ -- AFA --  
15 Do you see that?  
16 A. BTA reference?  
17 Q. Basically, Yes. The second page is  
18 the original.  
19 A. So you're looking at the second page?  
20 Q. Either one is fine, whether it's the  
21 English translation or the Spanish.  
22 A. Okay.  
23 So what is the question?  
24 Q. So why were you corresponding with  
25 Mr. Kiblisky in April of 2012 about Mr. Ablyazov



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1 CONFIDENTIAL -- Claudio Khamis  
2 not being able to appeal his jail term?  
3 MR. BLOOR: Objection.  
4 You can answer.  
5 A. I was communicating with him at the  
6 time about BTA bonds so low as 8.75 this  
7 morning, just not street -- just now street  
8 traded at up to 9.5, highest level this paper  
9 have ever traded.  
10 At the time, if I ever got the moment I  
11 began to read the second, it wasn't of my  
12 interest. I was -- this email, the subject of  
13 this email and matter of the importance of this  
14 email is the prices, not Ablyazov and his jail  
15 term. I was making financial decisions to make  
16 money. I wouldn't care less about the jail term  
17 of a person --  
18 Listen, at the time, I knew just way too  
19 little, compared to what I know today, about who  
20 Mr. Ablyazov was.  
21 Q. Who wrote the part that said:  
22 This headline just came out, could explain  
23 the move in BTA's.  
24 Was that you, or was that Mr. Kiblsky?  
25 A. Where?

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1 CONFIDENTIAL -- Claudio Khamis  
2 Q. The 11 11:43 message  
3 A. Can you refer to the page?  
4 MR. BLOOR: It's the same. One is  
5 in the English translation.  
6 A. What part are you referring to?  
7 Q. Well, what is a chat print?  
8 A. I don't know.  
9 Q. This appears to be a print of some --  
10 on some sort of a chatting service between you  
11 and Mr. Kiblsky?  
12 A. No. I don't think so.  
13 It seems that this is chat -- that's a  
14 speculation, because I just don't know what it  
15 is. It's a speculation.  
16 Probably chat, as I understand that use  
17 between traders. I don't know what services  
18 they use. I don't know if they do that through  
19 Bloomberg or through other platforms, but it  
20 seems it's a copy of a chat -- well, it says,  
21 actually, print of a chat.  
22 I don't -- I don't have those services, and  
23 I have never used them.  
24 Q. Although this email is from you to  
25 Mr. Kiblsky; right?

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1 CONFIDENTIAL -- Claudio Khamis  
2 A. Sure.  
3 Q. And you don't remember where you got  
4 this text from?  
5 A. No.  
6 Q. Okay. It's true, isn't it, that BTA's  
7 bond prices fluctuated based on news, such as  
8 Mr. Ablyazov's legal case, and other things that  
9 do not relate to the allegations in your  
10 complaint?  
11 MR. BLOOR: Objection.  
12 You can answer.  
13 A. I -- I don't agree with your  
14 assessment  
15 Q. Okay. Why do you disagree?  
16 A. Because I think that there is no basis  
17 for the assessment. There is no basis to know  
18 what the market is paying attention to each  
19 participant. This could be a -- at this  
20 particular date a market of two participants, 20  
21 participants, you just don't know. It's way too  
22 liquid. This is not Apple stock, and there is  
23 no way you can assess who is even behind the  
24 price action  
25 Q. You can put that aside.

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1 CONFIDENTIAL -- Claudio Khamis  
2 A. I would -- I would like to add  
3 something to this.  
4 Usually, financial markets, and I would say  
5 this, as I don't have any reason to believe this  
6 is the exception, would move into -- into news  
7 that affect the intrinsic value of the security,  
8 not on somebody's jail conviction. Market  
9 usually care about money, not emotions, and  
10 people participate in them to make money, not  
11 for other reasons than that.  
12 So I just don't understand your -- what the  
13 point you're trying to make.  
14 Q. Doesn't this chat that you forwarded  
15 to Mr. Kiblsky say this headline just came out,  
16 could explain the move in BTA's, the headline  
17 being fugitive ex-BTA boss can't appeal jail  
18 term?  
19 A. This is -- this is not the headline in  
20 this message  
21 The headline says print -- print -- chat  
22 print BTA, and it comes with the news in the  
23 chat. Who put them there? I just cannot make  
24 an assessment of that.  
25 Q. Can we look at what was previously

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1 CONFIDENTIAL -- Claudio Khamis  
2 mark as Kiblisky Exhibit 25?  
3 MR. BLOOR: It's right on top.  
4 Q. And this is a document bearing initial  
5 Bates number P00004458.  
6 Do you have that document in front of you,  
7 Mr. Khamis?  
8 A. 4458?  
9 Q. Yes.  
10 What is the subject line of this email?  
11 A. Subject line of the email?  
12 Q. Yes.  
13 A. BTA's presentation for conference call  
14 this morning, bonds moving high.  
15 Q. And what's being forwarded to you is a  
16 document called investor call presentation?  
17 A. Yeah.  
18 And the subject is bonds moving higher, and  
19 it's the very same presentation in which, if my  
20 memory is not wrong, for the first time BTA says  
21 something about a negative carry swap being in  
22 place, and still bonds are moving high.  
23 Q. Did you listen to the conference call  
24 that's being referenced here?  
25 A. No.

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1 CONFIDENTIAL -- Claudio Khamis  
2 Q. Did you read the transcript?  
3 A. I just received this presentation.  
4 Q. Do you think that the contents of the  
5 investor call and the transcript thereof would  
6 be information on which a reasonable investor  
7 would rely?  
8 MR. BLOOR: Objection.  
9 A. The -- excuse me?  
10 Q. Do you think that the investor call  
11 discussion by the CEO of BTA and the transcript  
12 of that call would be information on which a  
13 reasonable investor would rely?  
14 MR. BLOOR: Objection.  
15 A. I don't know what you mean by  
16 reasonable.  
17 MR. BLOOR: Did you catch my  
18 objection? Yeah.  
19 A. The question you want to make, if I  
20 was relying on this? No. I wasn't.  
21 Q. The question is really what other  
22 investors reasonably rely on what was said  
23 during the investor call.  
24 MR. BLOOR: Objection. I mean,  
25 that's a legal term. You're asking for

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1 CONFIDENTIAL -- Claudio Khamis  
2 him to make a legal conclusion about what  
3 reasonable investors would do.  
4 A. I couldn't assess what other investors  
5 were thinking at the time.  
6 Q. If you look at page 24 of the  
7 presentation, which is the very back page -- the  
8 back, back page --  
9 Was that what you were referring to just a  
10 moment ago by --  
11 A. Yes.  
12 Q. And the word swap doesn't appear  
13 there, does it?  
14 A. It's correct. It doesn't.  
15 Q. Okay. And on page 19 of the  
16 presentation, is there disclosure of the size of  
17 Fund SK's deposits as of the end of 2010?  
18 A. Which of the two pie charts are you  
19 looking at?  
20 Q. The one called deposits breakdown.  
21 A. Yes.  
22 Q. Let's look at what was previously  
23 marked as Khamis 28 --  
24 A. In this pile?  
25 Got it. That's fantastic.

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1 CONFIDENTIAL -- Claudio Khamis  
2 This is what date?  
3 Q. Well, the cover email is November 6,  
4 2012, but the actual presentation is  
5 July 2011. It's an email forwarding the Troika  
6 report.  
7 A. From what date? From July 2011?  
8 Q. Yes.  
9 Do you have that document in front of you?  
10 A. Yes.  
11 Q. Why don't we look at page 29.  
12 Do you see where it says negative carry  
13 swap?  
14 A. Yeah.  
15 Q. Is this the first time that in the  
16 documents we've looked at the last couple of  
17 days the phrase negative carry swap ever  
18 appears?  
19 A. In the document? You're probably  
20 right.  
21 Q. In this report from July 2011, Troika  
22 sets out the various components of what you've  
23 been referring to as a negative carry swap in  
24 your complaint; isn't that correct?  
25 A. Yes.

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1 CONFIDENTIAL -- Claudio Khamis  
2 Q. Also going back a page on 28, where  
3 you see it says lengthy recoveries?  
4 A. Sir, are we done with this previous  
5 document? Can I put it away?  
6 Q. Yeah.  
7 A. So where are you looking at?  
8 Q. Page 28, the section just before  
9 negative carry swap, it says lengthy recoveries.  
10 A. At the very last bullet?  
11 Q. Yes.  
12 A. Yes.  
13 Q. And it discusses in here that the bank  
14 is pursuing a protracted legal case against  
15 Ablyazov in US courts, and judging by court  
16 records, is progressing successfully, albeit  
17 quite slowly.  
18 Do you see that?  
19 A. Yes.  
20 Q. And do you have any reason, any basis  
21 for contesting the observation that the  
22 litigation against Ablyazov was progressing  
23 successfully?  
24 A. This was a report written by an  
25 analyst. I don't know what the basis for his --

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1 CONFIDENTIAL -- Claudio Khamis  
2 for his -- for what he writes, probably at that  
3 time, and I don't know what his -- what his  
4 knowledge of the legal case would be and what  
5 his assessment would be at the time.  
6 Q. You just have no reason to agree or  
7 disagree; is that correct?  
8 A. With the statement?  
9 Q. Right.  
10 A. I wouldn't have any reason to agree or  
11 disagree with this.  
12 Q. And you know from personal experiences  
13 that sometimes legal proceedings proceed quite  
14 slowly; isn't that correct?  
15 A. Legal proceedings usually can take  
16 time. Yes, I think that's right.  
17 Q. Did you make --  
18 Why did you remain invested in BTA after  
19 reviewing all of these different analysts  
20 reports between January 2011 and July 2011 that  
21 we just discussed?  
22 A. I think I answered this question  
23 several times during the last two days.  
24 Because I deemed the intrinsic value of the  
25 securities to be higher than the price, and

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1 CONFIDENTIAL -- Claudio Khamis  
2 because I deemed that the restructuring and the  
3 work done by the Kazakh government was well  
4 done, as was portrayed at the end of the first  
5 restructuring.  
6 This doesn't happen in a vacuum. This  
7 happens with a massive haircuts, with a decrease  
8 in liability from 11-point-something to  
9 4 billion, so 7 billion less in liabilities;  
10 injections of cash by the controller,  
11 1.4 billion, if my memory is right at the  
12 beginning; cash contributions, like the  
13 4 billion in deposits that were previously --  
14 So -- so the undertaking of the first  
15 restructuring was massive, and the amount of  
16 resources spent there, as I could conclude from  
17 what I was informed at the time, and at some  
18 point it was, I had information, I don't recall  
19 what was at the time that \$340 million US  
20 dollars were spent in advisory fees and legal,  
21 and to do a good job and recover assets and  
22 bring the loan portfolio into -- or assess it  
23 well and manage it well. It was a whole --  
24 whole pool of us, of facts.  
25 On top of that you have to -- during the

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1 CONFIDENTIAL -- Claudio Khamis  
2 whole period, until the very end, there were  
3 statements made related to Kazakh government  
4 officials that were in support of the bank, even  
5 well into the process and well after this May  
6 presentation. As I mentioned already,  
7 repeatedly, especially yesterday, some  
8 government officials were talking about the  
9 liquidity problems, not insolvency problems.  
10 I mean, I trusted the owner. I trusted the  
11 job that the owner did. There was full reliance  
12 on -- on the Kazakh authorities at the time. At  
13 the time I didn't suspect that it was a fraud.  
14 Q. So bottom line is you thought that the  
15 value of the BTA bonds was going to go up from  
16 where the market currently valued it, valued  
17 them; is that correct?  
18 MR. BLOOR: Objection.  
19 A. I think I answered that the question.  
20 I think you're trying to simplify, correct,  
21 my answer touched the prices, the intrinsic  
22 value, and a lot of other factors, and it cannot  
23 be split into other parts.  
24 \* \* \* \* \*  
25 \* \* \* \* \*

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1 CONFIDENTIAL -- Claudio Khamis  
2 (Whereupon, Khamis Exhibit  
3 Number 60, email, was marked for  
4 identification as of this date.)  
5 Q. Mr. Khamis, so the court reporter has  
6 handed you a document that's been marked Khamis  
7 Exhibit 60, which bears initial Bates number  
8 P00002741.  
9 Do you have that document in front of you?  
10 A. Yes.  
11 Q. And can you identify this document for  
12 the record?  
13 A. It was a mail sent by Izzo in  
14 November 2012.  
15 Q. To you? Was the email sent from  
16 Mr. Izzo to you?  
17 A. Yes.  
18 Q. What is the subject of this email?  
19 A. Kazakh wealth fund considers eight  
20 bond buyback to reboot BTA.  
21 But I'm lost on the timeline of events.  
22 Was it prior to 2012 restructuring or after the  
23 2012 restructuring?  
24 Q. That's actually an interesting  
25 question.

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1 CONFIDENTIAL -- Claudio Khamis  
2 It's forwarding an article that's dated  
3 November 30, 2011; is that correct?  
4 A. Correct.  
5 Q. Although the email itself is from  
6 2012; is that correct?  
7 A. Yeah.  
8 Q. Do you know why Mr. Izzo is sending  
9 you a year old or almost an exactly year old  
10 article at that point?  
11 A. I would have to read the content of  
12 the email to try to make sense why he would send  
13 me something.  
14 Q. Okay. Why don't you take a moment to  
15 do that.  
16 (Whereupon, the Witness complied  
17 with the request.)  
18 A. He's -- I don't want to speculate, but  
19 he's resending me an email that he sent  
20 previously.  
21 MR. BLOOR: We don't want you to  
22 speculate.  
23 Q. What Mr. Izzo is sending is a  
24 November 30th Bloomberg article about BTA Bank;  
25 correct?

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1 CONFIDENTIAL -- Claudio Khamis  
2 A. Correct.  
3 Q. And in this article quotes the deputy  
4 chief executive officer of Fund SK; is that  
5 correct?  
6 A. Yes.  
7 Q. And is it fair to characterize this  
8 article as saying that:  
9 Fund SK is considering additional  
10 injections of capital into the bank, but that  
11 additional injections shouldn't turn into money  
12 falling into a bottomless pit.  
13 Do you see that?  
14 A. Yeah.  
15 Q. Was, is that a fair characterization  
16 of the article, what it says in the article?  
17 A. We would have to read it entirely, but  
18 there is more information to it than --  
19 Q. Okay. Take your time.  
20 (Whereupon, the Witness complied  
21 with the request.)  
22 A. So yes. What's your question? If the  
23 article says what it says? Yes, it says what it  
24 says.  
25 Q. And what it says is that the deputy

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1 CONFIDENTIAL -- Claudio Khamis  
2 chief executive officer of Fund SK said:  
3 Additional injections shouldn't turn into  
4 money falling into a bottomless pit.  
5 And that's what it says; correct?  
6 A. Yeah.  
7 Q. Are you aware of any time when any  
8 representative of either Fund SK or BTA Bank  
9 unconditionally stated that Fund SK would  
10 backstop the payments on the bonds that you  
11 purchased?  
12 MR. BLOOR: Objection.  
13 A. What do you mean backstop? Support?  
14 Q. Yes.  
15 A. There were several statements made  
16 by -- by the authorities during the 2011, at  
17 least, that were consistent with state support,  
18 that they were or backing -- of the backing of  
19 the bank, that four pieces of information that  
20 were considered positive at the time  
21 And as I said, I mean, there was all the  
22 time information that they didn't follow a line  
23 of rationality. It was conflicting. Like I  
24 mentioned, raising lots of capital and then  
25 talking about the liquidity; raising lack of

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1 CONFIDENTIAL -- Claudio Khamis  
2 capital, and then Mr. Kulibayev and the daughter  
3 of Mr. Nazarbayev being interested in buying the  
4 bonds.  
5 It was an ocean of information and very  
6 conflicting, and especially conflicting with the  
7 very portrayed successful restructuring of 2010.  
8 Q. When you purchased additional bonds in  
9 2012, you understood that there was no assurance  
10 that Fund SK or the Kazakh government was going  
11 to bail out the bank's creditors, didn't you?  
12 MR. BLOOR: Objection.  
13 You can answer.  
14 A. Can you repeat the question?  
15 Q. When you purchased additional bonds of  
16 BTA in 2012, which is after the need for  
17 restructuring was announced, you did so  
18 understanding that there was no assurance that  
19 Fund SK or the Kazakh government was going to  
20 bail out the banks creditors, didn't you?  
21 MR. BLOOR: Objection.  
22 A. I wasn't paying attention to  
23 assurances in that regard.  
24 I was paying attention on -- on the  
25 assurances given to us at the end of 2010 that

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1 CONFIDENTIAL -- Claudio Khamis  
2 it was a successful restructuring and all its  
3 implications that it was a going concern.  
4 One more time I have to point out that, at  
5 least two of the -- of the damages suffered by  
6 capital during 2011 were highly questionable,  
7 like the party-related negative carry swap and  
8 the recognition of liabilities that, one more  
9 time, was JP Morgan saying served to decrease  
10 capital.  
11 So -- so when you see a statement like this  
12 and it says bottomless, the first question is  
13 okay, for it not to be bottomless, what is  
14 happening with management and the management of  
15 the bank? Particularly, we're forgetting those  
16 two points. Why would you want to recognize a  
17 liability when it was not.  
18 And from what we have reviewed, it's fairly  
19 clear that it wasn't a liability, because it  
20 hasn't been accelerated.  
21 Q. Okay. Don't you allege in your  
22 complaint that BTA should have recognized the  
23 full value of the recovery notes earlier than it  
24 did, meaning prior to acceleration?  
25 A. I -- I don't know the exact wording of

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1 CONFIDENTIAL -- Claudio Khamis  
2 the complaint. I don't have it memorized.  
3 But what we would have -- what we would  
4 have liked is to have -- to have a good  
5 understanding about -- about what was going on  
6 at the time after -- after the restructuring,  
7 and why were all those transactions not fully  
8 explained and the rationality behind them.  
9 We have talked a lot about the structure  
10 being in place, but the rationality of the BTA  
11 Bank's put its money to work at two percent and  
12 then receive the same money back and have to pay  
13 for it ten percent, it didn't make any sense.  
14 Q. Did I hear you testify just a couple  
15 of moments ago, Mr. Khamis, that you were making  
16 purchases in 2012 after the need for a second  
17 restructuring was made based on what you contend  
18 are representations in the 2010 information  
19 memorandum?  
20 MR. BLOOR: Objection.  
21 You can answer.  
22 A. The representations or the  
23 misrepresentations came clear to us only after  
24 the terms of the exchange were announced.  
25 A restructuring can mean a lot of things.

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1 CONFIDENTIAL -- Claudio Khamis  
2 It's a very vast and ample term. It can mean  
3 suspension of coupons. It can mean decrease of  
4 coupons. It can mean a lot of things.  
5 You are trying to -- to mix.  
6 Q. Didn't you testify multiple times over  
7 the past two days, Mr. Khamis, that financial  
8 information becomes stale quickly?  
9 A. Some of it comes stale quickly, and  
10 some of it, not.  
11 Q. So you believed that you could  
12 continue to rely in 2012 on the characterization  
13 of the 2010 restructuring as successful, despite  
14 all the intervening reports, and despite it had  
15 already been announce that BTA needed a second  
16 restructuring?  
17 MR. BLOOR: Objection.  
18 You can answer.  
19 A. Again, one more time, yes. The answer  
20 to that is that still, at the time the  
21 assessment was that the successful -- that the  
22 restructuring was significant, that it was cost  
23 a lot of money, that a lot of western advisors  
24 were involved, a lot of millions, hundreds of  
25 millions were spent to get it right. Massive



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1 CONFIDENTIAL -- Claudio Khamis  
2 provisioning had been done.  
3 And just a very few weeks before the end of  
4 or the month -- no. I think still at the end of  
5 2011, government officials are still talking  
6 about illiquidity, and illiquidity could have  
7 been an issue in such a case, but what was not  
8 to be expected was such a big deviation from a  
9 job well done.  
10 Q. There's no question that, by the end  
11 of 2011, BTA was unable to satisfy its monetary  
12 obligations as they came due; isn't that  
13 correct?  
14 A. One more time, you are -- you are  
15 portraying that the bank is not able to satisfy  
16 its obligations while it's engaged in a negative  
17 carry swap with its owner, that is the Sovereign  
18 Wealth Fund at the time.  
19 Can I go to the bathroom?  
20 Q. Yes, absolutely.  
21 THE VIDEOGRAPHER: The time is 7:16.  
22 We are going off the record.  
23 (Whereupon, a brief recess was  
24 taken.)  
25 THE VIDEOGRAPHER: The time is

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1 CONFIDENTIAL -- Claudio Khamis  
2 7:24 p.m. We are back on the record.  
3 Q. Mr. Khamis, can you look at what was  
4 previously marked as Khamis Exhibit 32?  
5 A. Is it there?  
6 MR. BLOOR: It should be in there.  
7 A. Yes.  
8 Q. And this the email from Mr. Poe to  
9 you, dated April 29, 2011?  
10 A. Dated what date?  
11 Q. Excuse me, November 29, 2011.  
12 A. Yes.  
13 Q. Is this some correspondence being  
14 forwarded to you by Mr. Poe and an individual at  
15 Renaissance Capital raising the possibility that  
16 the holders of the subordinated bonds might get  
17 a zero recovery in the event of a default?  
18 A. He is, apparently, making --  
19 communicating that he heard somewhere, he  
20 doesn't say the source, that the government may  
21 put money to SK to repurchase bonds from BTA,  
22 which should improve net interest and what, but  
23 will not change the situation dramatically.  
24 It's an opinion he's giving.  
25 Q. Isn't the question that Mr. Poe posed

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1 CONFIDENTIAL -- Claudio Khamis  
2 to Mr. Marcov at Renaissance Capital, would you  
3 expect a zero recovery on the 2025 bonds in the  
4 event of a default?  
5 A. Yes.  
6 Q. And after posing that question to an  
7 individual at Renaissance Capital, Mr. Poe  
8 forwarded the entire email chain to you;  
9 correct?  
10 A. Excuse me?  
11 Q. After posing that question to an  
12 individual at Renaissance Capital, Mr. Poe  
13 forwarded the entire email chain to you;  
14 correct?  
15 A. I think he forwarded after he received  
16 the answer, no?  
17 Q. Correct. The whole email chain.  
18 A. Yes.  
19 Q. So Mr. Poe was considering the  
20 possibilities of a zero recovery on the  
21 subordinated notes even before BTA announced its  
22 need for a second restructuring; isn't that  
23 correct?  
24 MR. BLOOR: Objection.  
25 A. I think Mr. Poe is making a question

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1 CONFIDENTIAL -- Claudio Khamis  
2 on somebody else's opinion, on somebody else's  
3 opinion.  
4 Q. And the question is whether to expect  
5 a zero recovery on this?  
6 MR. BLOOR: I'm just -- I'm going to  
7 object. I mean, how is he supposed to  
8 know what Mr. Poe is considering? I  
9 mean, the document says what it says.  
10 You asked him what does it say, he told  
11 what it says. Now you're asking him what  
12 was in Mr. Poe's mind.  
13 So unless you can figure out a way  
14 to find out if he knew, I don't know how  
15 he's supposed to answer that.  
16 MR. VIGNA: I don't think that's the  
17 question I asked, but --  
18 MR. BLOOR: We could read it back,  
19 because that's exactly what you asked.  
20 Mr. Poe was considering. That's  
21 what you asked him.  
22 I'm not sure how he is supposed to  
23 know that.  
24 Q. Put this one down and move on to --  
25 MR. BLOOR: Maybe we can stipulate

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1 CONFIDENTIAL -- Claudio Khamis  
2 the documents say what they say, if  
3 you're going to keep asking him does the  
4 document say this, does the document say  
5 that.  
6 THE WITNESS: Actually, you're  
7 making me read here.  
8 MR. BLOOR: Hold on, Claudio.  
9 We've been at this for way longer  
10 than we needed to. I mean, I think this  
11 deposition should have been done in a  
12 day. All the entities were the same.  
13 There's no reason for it to even be two  
14 days, and now we are going on --  
15 It's almost 9:00. He's exhausted.  
16 Can we try to -- you know, speed this up  
17 a little if we can?  
18 MR. VIGNA: Counsel, I think you  
19 understand exactly why I'm putting these  
20 documents in front of this witness, to  
21 establish exactly what he knew at the  
22 time that he was investing and what was  
23 communicated --  
24 MR. BLOOR: Sure. But ask him what  
25 he knew, then.

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1 CONFIDENTIAL -- Claudio Khamis  
2 Like I said, we'll stipulate the  
3 documents say what they say.  
4 MR. VIGNA: Can we mark another  
5 exhibit.  
6 (Whereupon, Khamis Exhibit  
7 Number 61, email, was marked for  
8 identification as of this date )  
9 Q. Mr. Khamis, the court reporter has  
10 handed you what's been marked as Khamis  
11 Exhibit 61.  
12 Do you see that?  
13 A. Yes.  
14 Q. What is this document?  
15 A. What is the document?  
16 Q. Yes.  
17 A. It's an emerging markets research.  
18 Q. And it's a document from your  
19 productions, bearing the initial Bates number  
20 P00003662, is that correct?  
21 A. I assume that you're saying so.  
22 Q. And it's from Mr. Yacher to  
23 undisclosed recipients, presumably including  
24 you, dated December 29, 2011?  
25 A. Correct.

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1 CONFIDENTIAL -- Claudio Khamis  
2 Q. Who put together this research report?  
3 A. Who put it together?  
4 Q. Who is the author of this research  
5 report?  
6 A. Barclays.  
7 Q. I really apologize for this delay.  
8 I'm trying to find my place in this document.  
9 A. No problem.  
10 Q. Found it.  
11 If we can turn to the first page of the  
12 report, bearing Bates number P00003663.  
13 Do you see that?  
14 A. Yes.  
15 Q. And do you see the --  
16 What's the subject of this report?  
17 A. The title?  
18 Q. Yes.  
19 A. The title says BTA plans a second  
20 restructuring.  
21 Q. And is this a discussion of possible  
22 results of that restructuring?  
23 A. I have to read it.  
24 You're saying so?  
25 Q. I'll represent that it is.

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1 CONFIDENTIAL -- Claudio Khamis  
2 A. Let me have a look at it, please.  
3 Q. Sure.  
4 (Whereupon, the Witness complied  
5 with the request.)  
6 A. Yes. It says in this note we  
7 considered potential restructuring scenarios.  
8 You're right  
9 Q. And can we stipulate that the six  
10 bullet points states, among other things, that:  
11 We would not rule out recoveries on  
12 subordinated debt potentially being close to  
13 zero with the only compensation being the bank's  
14 new shares.  
15 A. Listen, this report is giving an  
16 opinion. It's saying that it cannot rule out  
17 something, and --  
18 And it comes to my memory, right when I'm  
19 reading this, that 2012, February 2012,  
20 statements of SK's boss, that he would sit down  
21 with the bondholders to see if a restructuring  
22 was even needed.  
23 Q. What was your reaction when you  
24 reviewed this email sent to you by Mr. Yacher  
25 and this report --

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1 CONFIDENTIAL -- Claudio Khamis  
2 A. I couldn't recall what my reaction was  
3 given in the -- in the mix of a lot of  
4 information that I was receiving.  
5 (Whereupon, Khamis Exhibit  
6 Number 62, email, was marked for  
7 identification as of this date.)  
8 Q. Mr. Khamis, the court reporter has now  
9 handed you a document that's been marked Khamis  
10 Exhibit 62, bearing initial Bates number  
11 P00007606.  
12 Do you have that document in front of you?  
13 A. Yes.  
14 Q. Can you identify it for the record?  
15 A. The document is commentaries from an  
16 analyst from Renaissance on Kazakhstan.  
17 Q. And commentaries on what?  
18 A. It's something addressed to Mr. Izzo  
19 He's making his assessment on senior 2018, sub  
20 025 recovery notes, and his opinions on, in  
21 which paper to concentrate, I don't know, based  
22 on what prices he would make that assessment.  
23 If I were a new investor, I probably --  
24 Yeah. He is saying what he would do if he  
25 was an investor.

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1 CONFIDENTIAL -- Claudio Khamis  
2 Q. And is this, aside from the commentary  
3 from Mr. Nikitin at Renaissance, does  
4 Mr. Nikitin -- excuse me -- also forward a  
5 number of other analyses?  
6 A. Analyses or emails? Because there are  
7 Nikai in here also.  
8 Q. A number of emails that include what  
9 appear to be opinions by various analysts at  
10 Renaissance Capital.  
11 A. I don't see the other -- the other  
12 opinions.  
13 Where are the other opinions.  
14 Q. Well, for example on the page ending  
15 7607, 7608?  
16 MR. BLOOR: He's asking if he's  
17 forwarding other opinions.  
18 A. Yeah. He's forwarding other opinions.  
19 Q. What was the date of this, again?  
20 A. March 5, 2012.  
21 Q. Do you see the discussion by an  
22 individual named Mikhail going from page 7607,  
23 7608.  
24 A. Yes, I see Mr. Mikhail.  
25 Q. Can we stipulate that the conclusion

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1 CONFIDENTIAL -- Claudio Khamis  
2 of his analysis is we recommend not to get  
3 involved, referring to BTA bonds?  
4 A. Where does it say?  
5 Q. Last sentence says:  
6 We recommend not to get involved. Best  
7 regards, Mikhail.  
8 A. Get involved in what?  
9 Q. The entire subject of this is the  
10 different bonds of BTA.  
11 A. I don't understand the statement as --  
12 but it's a statement I didn't make, so I don't  
13 have any comments to make on it, on the  
14 statement, besides seeing that he's giving  
15 opinions without taking into consideration what  
16 the owner of the bank had said just one month  
17 before, less than one month before, because this  
18 is March 5, and the other was February, probably  
19 a month, beginning of February, if I recall.  
20 Q. So you just had a different opinion  
21 from Mikhail Nikitin at Renaissance Capital as  
22 to whether it was a good idea to buy more BTA  
23 bonds?  
24 A. I probably was listening more to the  
25 head of Samruk-Kazyna than to a guy I didn't

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1 CONFIDENTIAL -- Claudio Khamis  
2 know  
3 (Whereupon, Khamis Exhibit  
4 Number 63, email, was marked for  
5 identification as of this date.)  
6 Q. Mr. Khamis, the court reporter has  
7 just handed you a document that's been marked  
8 Khamis Exhibit 63, bearing initial Bates number  
9 P00001777.  
10 Do you have that document in front of you?  
11 A. Yes.  
12 Q. What is this document?  
13 A. This document is a -- also one month  
14 after the -- the information is released by the  
15 head of SK, Samruk-Kazyna, two days, if I  
16 recall, after an opinion given by some person in  
17 Kazakhstan, and now we have another new theory.  
18 But there were a lot of theories, it seems.  
19 Q. And what is the new theory that's  
20 discussed in this email that Mr. Izzo sent to  
21 you in March of 2012?  
22 A. Let me see where he's coming from. It  
23 seems, again, it's a chain of emails. I don't  
24 know where it's coming from, but it says the new  
25 theory --

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1 CONFIDENTIAL -- Claudio Khamis  
2 You want me to read it for you?  
3 Q. Sure.  
4 A. Liquidation should be the most  
5 reasonable option.  
6 Q. Why don't you read the rest of that  
7 sentence?  
8 A. Especially considering the fact that  
9 they lost 15 percent of the deposits in January.  
10 In this scenario, the sub debt should not  
11 recover much, if anything.  
12 Q. So Mr. Izzo was telling you that, at  
13 least, somebody had a theory at that holders of  
14 the subordinated notes would not recover much,  
15 if anything, in the ultimate --  
16 A. Listen, I don't even know if I read  
17 this, because if I read that something is new  
18 theory, how likely is I kept on reading?  
19 But in any case, I will tell you that I pay  
20 a lot of attention to the source of the  
21 information and the knowledge that the source of  
22 the information may have about a subject.  
23 This new theory, I don't know who the  
24 source of the information could have been now,  
25 but what I know is that what really impressed me

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1 CONFIDENTIAL -- Claudio Khamis  
2 at those time is the press release of SK in  
3 early February, where none of those theories  
4 were mentioned or even the necessity of a  
5 restructuring was to be discussed with the --  
6 with the debt holders or -- I don't know what  
7 the term was used.  
8 So it's -- it's interesting to note how  
9 many different opinions people were having at  
10 the time. I deemed the owner of the bank to be  
11 probably better informed that some person that  
12 made a new theory.  
13 Q. Mr. Khamis, do you tend to save most  
14 of the emails that you receive?  
15 A. Save?  
16 Q. Yes.  
17 A. I don't save anything. I mean, I just  
18 read through my emails, delete whatever --  
19 sometimes, when I have too much information, I'm  
20 looking something, I may delete something.  
21 What is your specific question?  
22 Q. How often do you go through your  
23 emails to delete them?  
24 A. I don't -- I'm not -- I don't really  
25 have a pattern. It's not like every Monday or

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1 CONFIDENTIAL -- Claudio Khamis  
2 every month.  
3 Q. Is there any reason why you did not  
4 delete this email?  
5 A. Why I did not delete this email?  
6 Q. Yes.  
7 A. I -- I couldn't -- there is a lot of  
8 purposeless emails that I have still in my  
9 inbox. I have a lot of emails that I -- I just  
10 don't clean my email, and I don't start from  
11 every year. It depends on --  
12 Usually I would say that I would delete  
13 emails when there's a specific day when I'm  
14 being informed of something I'm interested in,  
15 and there's a lot of other stuff coming in that  
16 is taking my attention from it, and if I have  
17 problems finding it, I keep on deleting just to  
18 make sure that the emails from that day are  
19 reduced to a number where it's convenient to  
20 find or easy to find.  
21 Q. Do you have, in your email system, do  
22 you keep folders related to your various  
23 investments?  
24 A. No. I -- I only make folders for the  
25 purposes of discovery, if my memory is correct.

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1 CONFIDENTIAL -- Claudio Khamis  
2 Q. So prior to the initiation --  
3 A. Sorry. I think it was part of the  
4 instructions that I received from my lawyer to  
5 try to organize in a certain way.  
6 Q. So prior to the beginning of discovery  
7 in this case, you hadn't made any efforts to  
8 save emails related to your BTA investments?  
9 MR. BLOOR: Objection.  
10 You can answer.  
11 A. Excuse me?  
12 Q. So prior to the beginning of discovery  
13 in this case, you hadn't made any effort to save  
14 the emails related to your BTA investments?  
15 A. I -- as I said, saving means not  
16 deleting to you?  
17 Q. Yes.  
18 A. Oh, I wouldn't have deleted. I would  
19 not have deleted emails regarding this issue, if  
20 that's what you're asking  
21 Q. Do you recall what level of support  
22 Fund SK eventually provided to the 2012  
23 restructuring?  
24 A. In the 2012?  
25 Q. Yes.

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1 CONFIDENTIAL -- Claudio Khamis  
2 A. No. In the 2012, I don't recall.  
3 Q. So you're just not aware of whether  
4 Fund SK agreed to convert all of its bonds to  
5 equity?  
6 A. I -- as I said, I don't recall the --  
7 what contribution SK did on that 2012  
8 restructuring.  
9 I was very much focused on getting the  
10 leftovers of my investment and make sense of  
11 what happened.  
12 Q. Do you know if Fund SK contributed any  
13 additional capital to BTA in conjunction with  
14 this restructuring?  
15 A. I think I just answered your question,  
16 Jason. I mean, I don't recall as of this  
17 moment, what SK's contributions was at the time.  
18 Q. So you don't have any opinion, sitting  
19 here today --  
20 A. I couldn't have an opinion if I don't  
21 recall.  
22 Q. Did you cast any votes in BTA's 2012  
23 restructuring?  
24 A. Again, I don't know what -- what  
25 happened at the time, but I certainly instructed

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1 CONFIDENTIAL -- Claudio Khamis  
2 my -- my advisors to get my money, so whatever  
3 was needed to -- to get my money was done.  
4 Q. And by get your money, do you mean to  
5 exchange your existing securities for new  
6 securities?  
7 A. I got \$0.025 cents, and get the \$0.14  
8 since my recovery units were taken already.  
9 Q. And prior to that exchange, do you  
10 know if you cast any votes in favor of or  
11 against the 2012 restructuring terms?  
12 A. Again, as I mentioned before, I  
13 instructed my -- my broker to submit whatever it  
14 was necessary for me to get my assets or  
15 exchange.  
16 Q. So you did not, to your knowledge,  
17 oppose the 2012 restructuring term?  
18 MR. BLOOR: Objection.  
19 You can answer.  
20 A. At the time, I didn't have a clear  
21 understanding of what, how I could oppose or be  
22 to hold out, as its known.  
23 What I understood is that eventually, if I  
24 had to dispute what went on, it has to be done  
25 by hiring a lawyer at some point and getting

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1 CONFIDENTIAL -- Claudio Khamis  
2 proper legal advice.  
3 Q. Did you lodge any objections to the  
4 restructuring in either the UK or the Kazakhstan  
5 courts?  
6 A. Excuse me?  
7 Q. Did you lodge any objections to the  
8 restructuring --  
9 A. Lodge is the word?  
10 Q. Did you make any objections to the  
11 restructuring plan to either --  
12 A. Kazakh courts?  
13 Q. -- or the UK courts where the  
14 restructuring was proceeding?  
15 MR. BLOOR: Objection.  
16 You can answer.  
17 A. No. Not that I know of, at least.  
18 Q. Do you know whether Fund SK ever  
19 eventually collected any of the interest that  
20 was owed on its deposits?  
21 A. You're referring now to the negative  
22 carry swap?  
23 Q. I'm referring to the deposits that  
24 Fund SK made in BTA on which it received or it  
25 was entitled to interest at the rates set

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1 CONFIDENTIAL -- Claudio Khamis  
2 forward in the information memorandum?  
3 A. You mean the question is regarding  
4 whether those interests were accrued or whether  
5 they were accrued and paid out?  
6 Q. The latter  
7 The question is whether they were  
8 eventually, not just accrued, but also paid out?  
9 A. I don't have information on -- on the  
10 cash.  
11 I just understood that -- that for both  
12 ways of the transaction, interest was being  
13 charged. Whether it was accrued or accrued and  
14 paid, I don't have knowledge of that.  
15 But the effect on capital are the same,  
16 whether they are accrued or accrued and paid.  
17 Q. There is a difference when it comes to  
18 restructuring a bankruptcy, isn't there?  
19 A. The -- after the bankruptcy has been  
20 declared, yes  
21 To my knowledge, no bankruptcy was ever  
22 declared here. There was a restructuring, was  
23 declared bankruptcy? Maybe you know more about  
24 the 2012 restructuring than I do.  
25 Q. It certainly would have made a



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1 CONFIDENTIAL -- Claudio Khamis  
2 difference to Fund SK's bottom line, whether it  
3 actually received payments of the interest or  
4 not, wouldn't it?  
5 MR. BLOOR: Objection.  
6 You can answer.  
7 A. I'm not making any assessments on what  
8 it would have or not would have made any  
9 difference for SK, given that SK at the same  
10 time was the owner, so I don't know how SK was  
11 balancing its protection of the bank as an  
12 ongoing concern, its equity, or its negative  
13 carry swap involvement.  
14 Q. Do you know whether BTA --  
15 After the 2010 restructuring, did BTA  
16 achieve the capital ratios required for a Kazakh  
17 bank, to your knowledge?  
18 A. I don't have recollection on this at  
19 this moment.  
20 Q. Do you believe that BTA subordinated  
21 note holders had a superior right to BTA's  
22 assets than did Fund SK?  
23 A. Excuse me, can you repeat your  
24 question?  
25 Q. Do you believe that BTA subordinated

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1 CONFIDENTIAL -- Claudio Khamis  
2 note holders, like yourself, had a superior  
3 right to BTA's assets than did Fund SK?  
4 MR. BLOOR: Objection.  
5 You can answer.  
6 A. I think -- I think subordinated note  
7 holders have superior right to equity.  
8 Q. With respect to the --  
9 Do the subordinated note holders have a  
10 superior right in bankruptcy situation to  
11 depositors?  
12 MR. BLOOR: Objection.  
13 You can answer.  
14 A. I don't know the -- I don't know -- I  
15 don't recall having had this knowledge.  
16 Q. Is there any explanation that you  
17 possibly could give for why Fund SK would have  
18 wanted -- would have been engaged in any fraud  
19 at BTA -- strike that.  
20 You've testified at various times that BTA  
21 was the owner or -- excuse me, Fund SK was the  
22 owner of BTA; correct?  
23 A. It was.  
24 Q. Do you have any views on whether  
25 Fund SK suffered any losses on its equity in

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1 CONFIDENTIAL -- Claudio Khamis  
2 BTA?  
3 A. If I have a view?  
4 Q. Yes.  
5 A. On SK losses?  
6 Q. Do you know if SK lost money on its  
7 ownership interest in BTA?  
8 A. I don't think I have the -- all the  
9 information to assess what the role of SK Fund  
10 was in the complete set of transactions.  
11 We're alleging fraud --  
12 MR. BLOOR: Let him ask his next  
13 question.  
14 Q. Why didn't you -- I can predict the  
15 answer to this, but why didn't you sue --  
16 (Whereupon, a cell phone rang and a  
17 discussion was held off the record.)  
18 Q. -- Alliance or Maxcom in connection  
19 with your losses suffered in those companies?  
20 MR. BLOOR: Objection.  
21 You can answer.  
22 A. Probably because I didn't have any  
23 reason to believe that there was fraud.  
24 Q. Didn't Alliance go through a  
25 restructuring very similar to the one like BTA,

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1 CONFIDENTIAL -- Claudio Khamis  
2 two restructurings --  
3 MR. BLOOR: Objection. I mean, you  
4 asked this earlier, he didn't recall  
5 these restructurings, but if you want to  
6 ask him again, I guess you can.  
7 Q. To your knowledge, did Alliance go  
8 through two restructurings very similar to  
9 BTA's?  
10 MR. BLOOR: Objection.  
11 A. I -- I don't have -- I don't recall  
12 much about Alliance or what information I may  
13 have had at the time about Alliance.  
14 MR. VIGNA: Why don't you give me a  
15 five-minute break, and I think I can wrap  
16 up in ten minutes  
17 THE VIDEOGRAPHER: The time is 8:01.  
18 We're going off the record.  
19 (Whereupon, a brief recess was  
20 taken.)  
21 THE VIDEOGRAPHER: The time is 8:09.  
22 We are back on the record.  
23 Q. Mr. Khamis, at the time that you made  
24 your investments in BTA Bank, and prior to that  
25 TuranAlem Finance, did you understand that they

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1 CONFIDENTIAL -- Claudio Khamis  
2 were risky investments?  
3 A. I think I mentioned yesterday that  
4 risk concept is a relative.  
5 At the time when I first made those  
6 investments and I saw the biggest bank of a  
7 great country with lots of natural resources  
8 being massively intervened by the state and all  
9 the participant, Sovereign Wealth Fund, which  
10 usually sovereign wealth funds are very serious  
11 institutions, and the big amount of  
12 provisioning --  
13 When you buy an asset that has a price that  
14 has a difference with -- with what was assessed  
15 at the moment, as an intrinsic value, probably  
16 the assessment that I would refer is that there  
17 was a risk like the risks like almost in any  
18 investment, including treasuries, just that the  
19 risk was of a different nature.  
20 But for me, holding treasuries for a long  
21 period during the last 15 years, probably would  
22 have made sure that I would have had the  
23 precision and purchasing power due to inflation,  
24 to a yield below inflation.  
25 I couldn't compare, and referring very

1 CONFIDENTIAL -- Claudio Khamis  
2 bought the TuranAlem bonds, given the price that  
3 they were trading that was between -- if my  
4 memory is right, between \$0.17 and 0.22, so when  
5 you look at this range, if you buy at \$0.17,  
6 probably the assumption that was made on the  
7 loan portfolio was significant.  
8 And when the terms of the first  
9 restructuring came out, after massive  
10 provisioning, the exchange was highly higher --  
11 sorry, was significantly higher than the value  
12 in which we bought them.  
13 Q. So you were taking a calculated risk  
14 that the subordinated bonds would prove more  
15 valuable than the market was valuing them; is  
16 that true?  
17 MR. BLOOR: Objection.  
18 You can answer  
19 A. I think I have answered this question,  
20 I don't know how many times, during the last --  
21 I made assessment. You're using the word  
22 calculation. I don't think I used this word in  
23 the -- for the last two days.  
24 I was just making assessments of all  
25 relevant -- all information that I deemed

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1 CONFIDENTIAL -- Claudio Khamis  
2 simple terms to a concept that, for me, is a  
3 little bit more complicated.  
4 Q. Did you accept any risk when you  
5 invested in the BTA bonds?  
6 A. I would -- I would say to that, that  
7 every time you invest into something that the  
8 risk, uncertainty, and that the risk, risk of --  
9 treasuries have risk.  
10 In my opinion, of course this applies for  
11 assets in financial markets, almost all of them,  
12 that I can recall.  
13 Q. Do you feel that you bear any  
14 responsibility for your own investment  
15 decisions?  
16 A. I don't think I understand the  
17 question.  
18 Q. You would agree that you chose to buy  
19 BTA bonds at a time when lots of analysts were  
20 identifying vary significant risks of doing so;  
21 isn't that true?  
22 MR. BLOOR: Objection.  
23 You can answer.  
24 A. I'm not sure what the different  
25 analysts were saying at the time of when I

1 CONFIDENTIAL -- Claudio Khamis  
2 relevant at the time  
3 Q. And you deemed certain information  
4 relevant in different ways than other market  
5 participants, isn't that true?  
6 A. Listen, there is no way I could know  
7 how you think or that the person right next to  
8 you think. I just know what I think  
9 Q. At the times that you purchased your  
10 BTA bonds, were you willing to accept the risk  
11 that they could decrease in value?  
12 A. As I said before, every time you do an  
13 investment, you engage into a -- into some level  
14 of risk.  
15 Q. Do you believe --  
16 A. -- the question then is an assessment  
17 of the risk that you see and the probabilities  
18 of you making money, vis-a-vis losing money.  
19 MR. VIGNA: I have no further  
20 questions for the time, recognizing that  
21 if Mr. Khamis has any different views  
22 about the nature of his case going  
23 forward, we'd like to examine him on that  
24 again.  
25 MR. BLOOR: I just have one area I

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1 CONFIDENTIAL -- Claudio Khamis  
2 want to clarify, and it's just going to  
3 be short, so we can just stay here if  
4 you're good with it.  
5 EXAMINATION  
6 BY MARTIN BLOOR, ESQ.:  
7 Q. So Mr. Khamis, do you recall  
8 testifying earlier about purchasing TuranAlem  
9 bonds into 2009 and 2010?  
10 A. Yes.  
11 Q. And those bonds were ultimately  
12 converted into or as part of the 2010  
13 restructuring; is that right?  
14 A. Correct.  
15 Q. And you testified earlier that you  
16 instructed your broker to do what was necessary  
17 for you to participate in that restructuring?  
18 A. That's correct.  
19 Q. And at the time you made the decision  
20 to participate in that restructuring, had you  
21 relied on the information provided in the  
22 information memorandum that we've discussed here  
23 today?  
24 A. Yes.  
25 MR. BLOOR: I have no further

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2 questions  
3 THE VIDEOGRAPHER: The time is 8:18.  
4 This ends media number 4.  
5 (Whereupon, the record was closed.  
6 Time noted: 8:18 p.m.)  
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3  
4 INSTRUCTIONS TO WITNESS  
5  
6 Please read your deposition over  
7 carefully and make any necessary corrections.  
8 You should state the reason in the appropriate  
9 space on the errata sheet for any corrections  
10 that are made.  
11 After doing so, please sign the errata  
12 sheet and date it. You are signing same subject  
13 to the changes you have noted on the errata  
14 sheet, which will be attached to your  
15 deposition.  
16 It is imperative that you return the  
17 original errata sheet to the deposing attorney  
18 within thirty (30) days of receipt of the  
19 deposition transcript by you. If you fail to do  
20 so, the deposition transcript may be deemed to  
21 be accurate and may be used in court.  
22

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5 PAGE LINE CHANGE  
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7 REASON: \_\_\_\_\_  
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1 CONFIDENTIAL -- Claudio Khamis

2

3

4 ACKNOWLEDGMENT OF DEPONENT

5

6 STATE OF NEW YORK }  
7 COUNTY OF } SS.:

8

9 I have read the foregoing record of my  
10 testimony taken at the time and place noted in  
11 the heading hereof, and I do hereby acknowledge  
12 it to be a true and correct transcript of same.

13

14

15 \_\_\_\_\_  
CLAUDIO KHAMIS

16

17 Subscribed and sworn to before me  
18 this \_\_\_\_\_ day of \_\_\_\_\_, 2018.

19

20

21 \_\_\_\_\_  
Notary Public

22

23

24

25

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2

3 C E R T I F I C A T I O N

4

5 STATE OF NEW YORK }  
6 COUNTY OF NASSAU } : S.S.:

7

8 I, APRYL S. MONTERO, a Notary Public for  
and within the State of New York, do hereby  
certify:

9

10 That the testimony in the within  
proceeding was held before me at the aforesaid  
time and place, that said witness was duly sworn  
or affirmed before the commencement of the  
testimony, and that the testimony was taken  
stenographically by me, then transcribed under  
my supervision, and that the within transcript  
is a true record of the testimony of said  
witness.

14

15 I further certify that I am not related  
to any of the parties to this action by blood or  
by marriage, that I am not interested directly  
or indirectly in the matter in controversy, nor  
am I in the employ of any of the counsel.

17

18 IN WITNESS WHEREOF, I have hereunto set  
my hand this December 21, 2018.

19

20

21

22 \_\_\_\_\_  
APRYL S. MONTERO

23

24 (The foregoing certification of  
this transcript does not apply to any  
reproduction of the same by any means, unless  
under the direct control and/or supervision of  
the certifying reporter.)

25

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